

EXHIBIT O

15 CVD 8597

LEAD DOCUMENT FOR
SCANNING

AUDIT TRAIL

[illegible]

AOC-G-113 Rev. 1/08
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EXHIBIT

41

POUNDS EX 0535

STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

15 CvD.8597

PORTFOLIO RECOVERY ASSOCIATES, LLC,)

Plaintiff)

vs.)

JUDGMENT BY DEFAULT

[DEFJ]

AMANDA STANCIL,
2804 Forest Gump Drive Apt. D
Fayetteville, North Carolina 28304

Defendant)

THIS CAUSE came on to be heard before the undersigned Clerk of Superior Court of Cumberland County, North Carolina, upon motion by the Plaintiff for the Entry of Default Judgment against the Defendant, pursuant to the provisions of G.S. § 1A-1, Rule 55; and

IT APPEARED TO THE COURT AS FOLLOWS:

1. The Plaintiff initiated this action against the Defendant on November 17, 2015.
2. The Defendant is a resident of, or is domiciled within, the State of North Carolina and is subject to the jurisdiction of this Court pursuant to the provisions of G.S. § 1-75.4(1).
3. Service of process was properly obtained by serving copies of the summons and complaint upon the Defendant on or about February 15, 2016, in compliance with the requirements of G.S. § 1A-1, Rule 4(j)(1).
4. This is an action for a sum certain or a sum which can by computation be made certain, and the Court has jurisdiction over the parties and the subject matter of this action.
5. The Defendant has not been shown to be an infant, legally incompetent, under any other legal disability, or on active duty in military service.

POUNDS EX 0536

6. More than thirty (30) days has passed since service was had upon the Defendant, and the time allowed for the Defendant to respond to the complaint has expired. No answer or other pleading of any nature has been filed by the Defendant, nor has the Defendant made any appearance before the Court so as to be entitled to notice of this motion.

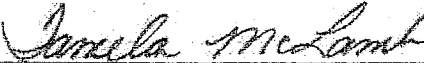
7. Default was entered against the Defendant pursuant to G.S. § 1A-1, Rule 55(a).

8. The Defendant is lawfully indebted to the Plaintiff in the principal sum of \$1,005.85 and said sum has been outstanding since August 14, 2013.

IT IS NOW, THEREFORE, ORDERED, ADJUDGED AND DECREED, pursuant to the provisions of G.S. § 1A-1, Rule 55, as follows:

1. That the Plaintiff have and recover from the Defendant the principal sum of \$1,005.85.
2. Plaintiff declines any post-charge-off interest whatsoever.
3. That the Plaintiff further have and recover from said Defendant the costs of this action.

This the 3 day of August, 2016.



[Assistant] Clerk of Superior Court

STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

15 CvD 8597

PORTFOLIO RECOVERY ASSOCIATES, LLC,)

Plaintiff)

vs.)

AMANDA STANCIL,)

Defendant)

ENTRY OF DEFAULT

[EODF]

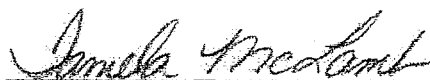
THIS CAUSE came on to be heard before the undersigned upon motion by the Plaintiff for an Entry of Default against the Defendant pursuant to N.C.G.S. § 1A-1, Rule 55(a); and

IT APPEARED AS FOLLOWS:

1. The Defendant is a resident of the State of North Carolina and is subject to the jurisdiction of this Court pursuant to the provisions of N.C.G.S. § 1-75.4(1).
2. The Plaintiff initiated this action against the Defendant on November 17, 2015. Service of process was properly obtained by serving copies of the summons and complaint upon the Defendant on or about February 15, 2016, in compliance with the requirements of N.C.G.S. § 1A-1, Rule 4(j)(1).
3. No answer or other pleading of any nature has been filed by the Defendant, nor has the Defendant appeared before the Court in any manner, and the time allowed for the Defendant to answer, plead or otherwise appear has expired.

IT IS NOW, THEREFORE, ORDERED that Default be and is hereby entered against the Defendant pursuant to N.C.G.S. § 1A-1, Rule 55(a).

This the 3 day of August, 2016.



[Assistant] Clerk of Superior Court

POUNDS EX 0538

STATE OF NORTH CAROLINA **FILED** IN THE GENERAL COURT OF JUSTICE

COUNTY OF CUMBERLAND

DISTRICT COURT DIVISION

2016 AUG -3 A 11: 08

15 CvD 85970*

PORTFOLIO RECOVERY ASSOCIATES, LLC,)
CUMBERLAND CO., C.S.C.)

Plaintiff)

PLAINTIFF'S MOTION)

vs.)

for)

ENTRY OF DEFAULT and)

AMANDA STANCIL,)

JUDGMENT BY DEFAULT)

Defendant)

[EODF & DEFJ]

NOW COMES the Plaintiff, Portfolio Recovery Associates, LLC, by and through undersigned counsel, and pursuant to N.C. Gen. Stat. § 1A-1, Rule 55, moves the Court for Entry of Default and Default Judgment against the Defendant, Amanda Stancil. The Plaintiff shows the Court as follows:

1. On or about November 17, 2015, the Plaintiff brought this action against the Defendant for a sum certain or a sum which could by computation be made certain.
2. Upon information and belief, the Defendant is a resident of, or is domiciled within, the State of North Carolina and subject to the jurisdiction of this Court pursuant to N.C. Gen. Stat. § 1-75.4(1).
3. Pursuant to N.C. Gen. Stat. § 1-A-1, Rule 4(j)(1), service of process was obtained within the State of North Carolina on February 15, 2016, as evidenced by the filed return of service.
4. More than thirty (30) days has passed since the Defendant was served, and the time allowed for the Defendant to respond to the complaint has expired.



POUNDS EX 0539

5. No filed answer or other pleading of any nature has been served upon or received by Plaintiff's counsel and therefore, upon information and belief, the Defendant has failed to plead and has become subject to default judgment.

6. As shown by the affidavit and other evidence filed by the Plaintiff in this matter and incorporated into this motion by reference, the Defendant opened a credit account (the "Account") with the Plaintiff's predecessor-in-interest, and accepted and used the credit during the time that the Account was active.

7. As further shown by the Plaintiff's evidence, the Defendant is indebted to the Plaintiff in the principal sum of \$1,005.85, and costs of this action.

8. The Plaintiff has received no notice that the Defendant is an infant, legally incompetent, under any other legal disability, or on active duty in military service.

WHEREFORE, the Plaintiff moves the Court to enter Default and to render Judgment by Default against the Defendant pursuant to N.C. Gen. Stat § 1A-1, Rule 55.

This the 15th day of August, 2016.

SESSOMS & ROGERS, P.A.

By: 

Andrew E. Hoke (N.C. Bar 44463)

Mitchell A. Meyers (N.C. Bar 28215)

Attorneys for Plaintiff

P.O. Box 110564

Durham, North Carolina 27709

Telephone: (919) 688-1000

Fax: (919) 688-9000

Email: consumerinquiries@sessomslaw.com

BUSINESS RECORDS AFFIDAVIT

Commonwealth of Virginia
City of Norfolk ss.

I, the undersigned, Cristina Patterson, Custodian of Records, for Portfolio Recovery Associates, LLC hereby depose, affirm and state as follows:

1. I am competent to testify to the matters contained herein.
2. I am an authorized employee of Portfolio Recovery Associates, LLC, ("Account Assignee") which is doing business at Riverside Commerce Center, 120 Corporate Boulevard, Norfolk, VA 23502. I am familiar with the policies and practices, as well as the books and records of Account Assignee with respect to matters stated herein. This affidavit is based upon my personal knowledge of Account Assignee's record keeping system and my review of the business records of the Original Creditor **GE CAPITAL RETAIL BANK/BELK**, including a review of the business records transferred to Account Assignee from **GE CAPITAL RETAIL BANK** ("Account Seller"), which have become a part of and have integrated into Account Assignee's business records, and which are reasonably relied upon by the Account Assignee in the ordinary course of business.
3. According to the attached 9 pages of business records from **GE CAPITAL RETAIL BANK/BELK**, which are maintained in the ordinary course of business, the account, and all proceeds of the account are now owned by the Account Assignee, all of the Account Seller's interest in such account having been sold, assigned and transferred by the Account Seller on **09/19/2013**. Further, the Account Assignee has been assigned all of the Account Seller's power and authority to do and perform all acts necessary for the settlement, satisfaction, compromise, collection or adjustment of said account, and the Account Seller has retained no further interest in said account or the proceeds thereof, for any purpose whatsoever.
4. According to the records transferred to the Account Assignee from Account Seller, and maintained in the ordinary course of business by the Account Assignee, the Account was issued to the defendant and the defendant was obligated to pay it. The defendant breached the terms of the Account and there was due and payable from **AMANDA STANCIL** to the Account Seller the sum of **\$1,005.85** with the respect to account number ending in **4436** as of the date of **08/14/2013** with there being no known un-credited payments, counterclaims or offsets against the said debt as of the date of sale.
5. According to the account records of said Account Assignee, after all known payments, counterclaims, and/or setoffs occurring subsequent to the date of sale, Account Assignee claims the sum of **\$1,005.85** as due and owing as of the date of this affidavit.
6. Account Assignee's records are kept in the course of regularly conducted business activity of Account Assignee, as part of a regular practice of said activity, and were made at or near the time of the acts or events they record by (or from information transmitted by) someone with knowledge of said acts or events. The attached documents are true and correct copies of the original documents.
7. Plaintiff believes that the defendant is not a minor or an incompetent individual, and declares that the Defendant is not on active military service of the United States.

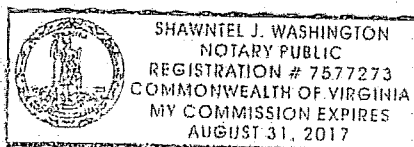
Portfolio Recovery Associates, LLC

By: Cristina Patterson Custodian of Records

Subscribed and sworn to before me on

JUN 07 2015

Notary Public



This communication is from a debt collector and is an attempt to collect a debt.
Any information obtained will be used for that purpose.

POUNDS EX 0541



Belk Rewards Credit Card

AMANDA C STANCIL
Account Number: [REDACTED] 1436

Visit us at www.belkcredit.com
Customer Service: 1-800-669-6550

Summary of Account Activity	
Previous Balance	\$211.52
- Payments	\$170.00
+ Interest Charged	\$18.32
New Balance	\$759.84
Credit Limit	\$750.00
Available Credit	\$0.00
Statement Closing Date	01/16/2013
Days in Billing Cycle	31

Payment Information	
New Balance	\$759.84
Total Minimum Payment Due	\$32.00
Overlimit Amount	\$9.84
Payment Due Date	02/08/2013
Late Payment Warning: If we do not receive your minimum payment by the date listed above, you may have to pay a late fee up to \$35.00.	
Minimum Payment Warning: If you make only the minimum payment each period, you will pay more in interest and it will take you longer to pay off your balance. For example:	
If you make no additional charges using this card and each month you pay ...	You will pay off the balance shown on this statement in about ...
Only the Minimum payment	5 years
	\$1,205.00
If you would like information about credit counseling services, call 1-877-302-8775.	

Rewards Points Summary	
Previous Point Balance	0
Points Earned This Period	0
Points Converted to Rewards	0
Current Point Balance	0
Points to Next Reward	400
Rewards Earned This Year	\$0

Belk Account News	
Current Year-To-Date Spend: \$0.00	
Spend Needed For Premier Status: \$600.00	
Points To Next Reward: 400	
Use Your Belk Card to Enjoy Exceptional Value, Savings And Rewards!	
Remember You Earn 1 Point For Every Dollar You Spend, Some Exclusions Apply.	
Basic	Premier \$600
Elite \$1500	
\$0	\$375
\$750	\$1125
\$1500	

Transaction Summary	
Tran Date	Post Date
Reference Number	Plan Type
Description of Transaction or Credit	Amount
01/10 01/10 P9356000800X96H0Y	ONLINE PYMT-THANK YOU ALPHARETTA GA
	FEES
	TOTAL FEES FOR THIS PERIOD
	INTEREST CHARGED
01/16 01/16	INTEREST CHARGE ON PURCHASES

PAYMENT DUE BY 5 P.M. (ET) ON THE DUE DATE.
NOTICE: We may convert your payment into an electronic debit. See reverse for details, Billing Rights and other important information.

DETACH AND MAIL THIS PORTION WITH YOUR CHECK. DO NOT INCLUDE ANY CORRESPONDENCE WITH YOUR CHECK.



Total Minimum Payment Due	Payment Due Date	Overlimit Amount	New Balance
\$32.00	02/08/2013	\$9.84	\$759.84

Payment Enclosed: \$ [] [] [] [] [] [] [] [] [] []
Please use blue or black ink.



New address or email? Print changes on back.

AMANDA C STANCIL
350 DEXTER LN APT 307
FAYETTEVILLE NC 28314-0467

Make Payment To: BELK/GBCR6
PO BOX 530940
ATLANTA, GA 30353-0940



Transaction Summary (Continued)					
Tran Date	Post Date	Reference Number	Plan Type	Description of Transaction or Credit	Amount
TOTAL INTEREST FOR THIS PERIOD					\$18.32
2013 Totals Year-To-Date					
Total Fees charged in 2013				\$0.00	
Total Interest charged in 2013				\$18.32	
Total Interest Paid in 2013				\$5.09	

Interest Charge Calculation					
Your Annual Percentage Rate (APR) is the annual interest rate on your account.					
Type of Balance	Expiration Date	ANNUAL PERCENTAGE RATE	Balance Subject to Interest Rate	Interest Charge	Balance Method
Current Transactions					
Regular Purchases	N/A	24.49%	\$843.28	\$17.55	2D
Transactions on or before 03/01/2011					
Regular Purchases	N/A	23.49%	\$38.98	\$0.77	2D

Cardholder News and Information

You have recently been unenrolled from electronic statement delivery. You may have opted to stop receiving electronic statements, or this may have occurred because of changes in your account or failure to comply with the Terms and Conditions of the electronic statement service. Please feel free to reenroll at any time.

Cardholder Benefits and Information

Sign up for electronic statements - just go to www.belkcredit.com/obill.



Interest Charge Calculation(Continued)					
Type of Balance	Expiration Date	ANNUAL PERCENTAGE RATE	Balance Subject to Interest Rate	Interest Charge	Balance Method
Regular Purchases	N/A	24.49%	\$0.00	\$0.00	2D
Transactions on or before 03/01/2011					
Regular Purchases	N/A	23.49%	\$0.00	\$0.00	2D

Cardholder News and Information

Please Note: Enclosed is the Privacy Policy for this account. Please take a moment to read it, then keep it with other financial documents. If you have previously opted-out, you do not need to do so again.

Cardholder Benefits and Information

Sign up for electronic statements - just go to www.belkcredit.com/ebill.



GE Capital

BILL of SALE

PRA PLCC Fresh – September 2013

For value received and in further consideration of the mutual covenants and conditions set forth in the Forward Flow Receivables Purchase Agreement (the "Agreement"), dated as of this 9th day of July, 2013 by and between General Electric Capital Corporation, GE Capital Retail Bank, GEMB Lending, Inc., Monogram Credit Services, L.L.C., RFS Holding, L.L.C., and GEM Holding, L.L.C. (collectively "Seller") and Portfolio Recovery Associates, LLC ("Buyer"), Seller hereby transfers, sells, conveys, grants, and delivers to Buyer, its successors and assigns, without recourse except as set forth in the Agreement, to the extent of its ownership, the Receivables as set forth in the Notification Files (as defined in the Agreement), delivered by Seller to Buyer on September 19, 2013, and as further described in the Agreement.

GE Capital Retail Bank

By: Ken Wojcik
 Ken Wojcik

Title: EVP Collections & RecoveryDate: 10-2-13

General Electric Capital Corporation

By: Ken Wojcik
 Attorney in Fact Ken Wojcik

Date: 10-2-13

GEMB Lending, Inc.

By: Ken Wojcik
 Attorney in Fact Ken Wojcik

Date: 10-2-13

Monogram Credit Services, L.L.C.

By: Ken Wojcik
 Attorney in Fact Ken Wojcik

Date: 10-2-13

RFS Holding, L.L.C.

By: Ken Wojcik
 Attorney in Fact Ken Wojcik

Date: 10-2-13

GEM Holding, L.L.C.

By: Ken Wojcik
 Attorney in Fact Ken Wojcik

Date: 10-2-13

Portfolio Recovery Associates, LLC

By: Andrew J. Stiller

Title: Attorney in Fact

ACCTNUM	██████████4436
MKR_FN	AMANDA
R_LN	STANCIL
COMPNY_NAME	
MKR_TAXID	██████████5158
MKR_AD1	350 DEXTER LN APT 307
MKR_AD2	
MKR_AD3	
MKR_CITY	FAYETTEVILLE
MKR_ST	NC
MKR_ZIP	28314-0467
MKR_HP	9109225985
MKR_WP	0000000000
MKR_BARDATE	0
MKR_BKCHAP	
MKR_CASENUM	
MKR_DISCHDTE	0
MKR_DISMSDTE	0
MKR_BKMEETDTE	0
MKR_BKCOURT	
MKR_BKFILEDT	0
ECOA	1
ENDATE	20071021
CHGOFF_DATE	20130814
RMSLASTPMT	20130110
LASTPMTAMT	170
BRANCH	CB93
DOFD	20130213
CHGOFFCODE	UNPY
LOSSAMT	1005.85
CURBAL	1005.85
RMSFILENUM	70667937
ACCTSTS	SF5
STSDISC	Sales - Final - Primary Random Sale
JDGDATE	0
OFF_CODE	MPL467
OFF_DESC	Belk Rewards Card
BCLE	0181
BCLE_DESC	Retail Bank
BUYERCODE	PR1S
INT_RATE	24.49
NET_COSTS	0
T_INTEREST	644.43
NET_PRINCIPAL	361.42
PRINC_LOSS	361.42

POUNDS EX 0547

ASSOC_COSTS	0
ACCRD_INT	644.43
TPURCHDT	20111004
CMKR_FN	
CMKR_LN	
CMKR_TAXID	
CMKR_ADDR1	
CMKR_ADDR2	
CMKR_CITY	
CMKR_STATE	
CMKR_ZIP	
CMKR_LIABLE	
CMKR_DOB	
LANG_IND	EN

Data printed by Portfolio Recovery Associates, LLC from electronic records
provided by GE CAPITAL RETAIL BANK pursuant to the sale of accounts from GE CAPITAL RETAIL BANK
to Portfolio Recovery Associates, LLC

STATE OF NORTH CAROLINA

COUNTY OF CUMBERLAND

File No.
15 CvD 8597

IN THE GENERAL COURT OF JUSTICE

☐ Superior ☒ District ☐ Before the Clerk

Plaintiff(s)

Portfolio Recovery Associates, LLC

2016 AUG -3 A 11:08

AFFIDAVIT

Servicemembers Civil Relief Act

vs.

Defendant(s)

Amanda Stancil

CUMBERLAND CO., C.S. 50 U.S.C. App. §§501-597b

OATH

I, Diana L. Conradt-Mullen, being duly sworn, depose and say:

MILITARY SERVICE OF DEFENDANT

☒ The defendant, (Amanda Stancil) ☐ IS or ☒ IS NOT in the military service.

MILITARY STATUS OF DEFENDANT

I Have

☒ Checked the Department of Defense Manpower Data Center website to determine the defendant's military status. <https://www.dmdc.osd.mil/app/jscra/>

☐ Requested a written search of the defendant's military status from the Department of Defense Manpower Data Center. [Defense Manpower Data Center, Attn: Military Verification, 1600 Wilson Blvd, Suite 400, Arlington, VA 22209-2593]

☒ Attached are the results of that search and/or written response.

ADDITIONAL FACTS SUPPORTING THE STATEMENT ABOVE ABOUT DEFENDANT'S MILITARY SERVICE

[State how you know the Defendant IS or IS NOT in the military. Be specific]

INABILITY TO DETERMINE MILITARY STATUS

☐ I AM UNABLE TO DETERMINE WHETHER OR NOT THE DEFENDANT IS IN MILITARY SERVICE

DATE/SIGNATURE

Date: 8-1-16

Signature of Affiant: [Signature]

NOTARY

State of North Carolina
County of Durham

Sworn to and Subscribed before me this day by: Diana L. Conradt-Mullen

☒ I have personal knowledge of the identity of the affiant, or ☐ I have seen satisfactory evidence of the affiant's identity in the form of a current state or federal identification with the affiant's photograph

This the 1 day of August, 2016 My commission expires: 1-24-17

Printed Name of Notary: Julia Morava
CCLF-CV-005 (4/2015)

Signature of Notary: [Signature] (SEAL)



* M X 0 0 0 0 2 4 6 9 9 6 *

JULIA MORAVA
Notary Public, North Carolina
Chatham County
My Commission Expires
January 24, 2017

POUNDS EX 0549



Status Report
Pursuant to Servicemembers Civil Relief Act

Last Name: STANCIL

First Name: AMANDA

Middle Name:

Active Duty Status As Of: Aug-01-2016

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individual's active duty status based on the Active Duty Status Date.			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date.			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty.			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

Mary M. Snavelly-Dixon

Mary M. Snavelly-Dixon, Director
Department of Defense - Manpower Data Center
4800 Mark Center Drive, Suite 04E25
Arlington, VA 22350

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense (DoD) that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. § 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via this URL: <https://kb.defense.gov/PublicQueries/publicQuestions/FaqsAnswers.jsp?Subject=Locating Service Members or Getting a Mailing Address>. If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. § 521(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d) (1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC § 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

WARNING: This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.

Certificate ID: 09LBKF54634BG90

SESSOMS & ROGERS, P.A.
ATTORNEYS AT LAW

MAILING ADDRESS:
P.O. Box 110564
DURHAM, NC 27709

TELEPHONE (919) 688-1000
FACSIMILE (919) 688-9000

August 1, 2016

Clerk of Superior Court
Cumberland County Courthouse
P.O. Box 363
Fayetteville, North Carolina 28302

Re: Portfolio Recovery Associates, LLC
v.
Amanda Stancil
Cumberland County Case No. 15 CvD 8597-04

FILED
2016 AUG -3 A 11:08
CUMBERLAND CO., N.C.

Dear Sir or Madam:

Enclosed please find the original and one (1) copy of the Motion for Entry of Default and Judgment by Default, the Entry of Default, and the proposed Judgment by Default in this case.

Please file the Motion, enter the Default, and enter the proposed Judgment by Default as authorized by N.C. Gen. Stat. § 1A-1, Rules 55(a) and 55(b)(1). Thereafter, please return the copy of each document to our office in the enclosed self-addressed, stamped envelope.

Thank you very much for your assistance. If you have any questions or if you need additional information, please contact our firm at the address or telephone number listed above.

Sincerely yours,

SESSOMS & ROGERS, P.A.

S&R:dlc
Enclosures

POUNDS EX 0552

SESSOMS & ROGERS, P.A. **FILED**
ATTORNEYS AT LAW

MAILING ADDRESS:
P.O. Box 110564
DURHAM, NC 27709

2016 FEB 11 AM 10: 47

TELEPHONE (919) 688-1000
FACSIMILE (919) 688-9000

CUMBERLAND CO., C.S.C.

February 1, 2016 BY _____

Clerk of Superior Court
Cumberland County Courthouse
P.O. Box 363
Fayetteville, North Carolina 28302

Re: Portfolio Recovery Associates, LLC
v.
Amanda Stancil
Cumberland County Case No. 15 CvD 8597

Dear Sir or Madam:

We are enclosing the original and one copy of an Affidavit of Military Service. Once the Affidavit has been filed, please return a copy to our office. We enclose a self-addressed stamped envelope for your convenience.

Thank you very much for your assistance. If you have any questions with respect to this matter, or if you need any further or additional information, please contact our firm at the address or telephone number above.

Sincerely yours,

SESSOMS & ROGERS, P.A.

S&R:mkr
Enclosures
246996.001

POUNDS EX 0553

STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND

File No.
15 Cvd 8597

FILED

IN THE GENERAL COURT OF JUSTICE

☐ Superior ☒ District ☐ Before the Clerk

2016 FEB 11 AM 10:47

Plaintiff(s)

Portfolio Recovery Associates, LLC

vs.

Defendant(s)

Amanda Stancil

AFFIDAVIT

CUMBERLAND CO., C.S.C.
Servicemembers Civil Relief Act
50 U.S.C. App. §§501-597b

OATH

I, Rachel Baldwin, being duly sworn, depose and say:

MILITARY SERVICE OF DEFENDANT

☒ The defendant, (Amanda Stancil) ☐ IS or ☒ IS NOT in the military service.

MILITARY STATUS OF DEFENDANT

I Have

☒ Checked the Department of Defense Manpower Data Center website to determine the defendant's military status. <https://www.dmdc.osd.mil/appj/scra/>

☐ Requested a written search of the defendant's military status from the Department of Defense Manpower Data Center. [Defense Manpower Data Center, Attn: Military Verification, 1600 Wilson Blvd, Suite 400, Arlington, VA 22209-2593]

☒ Attached are the results of that search and/or written response.

ADDITIONAL FACTS SUPPORTING THE STATEMENT ABOVE ABOUT DEFENDANT'S MILITARY SERVICE

[State how you know the Defendant IS or IS NOT in the military. Be specific]

INABILITY TO DETERMINE MILITARY STATUS

☐ I AM UNABLE TO DETERMINE WHETHER OR NOT THE DEFENDANT IS IN MILITARY SERVICE

DATE/SIGNATURE

Date: 2/1/2016

Signature of Affiant: Rachel Baldwin

NOTARY

State of North Carolina
County of Durham

Sworn to and Subscribed before me this day by: Rachel Baldwin

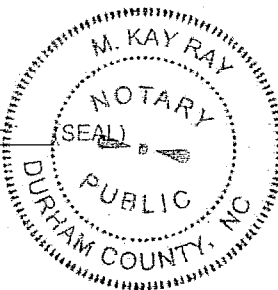
(☒ I have personal knowledge of the identity of the affiant, or ☐ I have seen satisfactory evidence of the affiant's identity in the form of a current state or federal identification with the affiant's photograph)

This the 1st day of Feb, 2016

My commission expires: 7/18/2016

Printed Name of Notary: M. Kay Ray
CCLF-CV-005 (4/2015)

Signature of Notary: M Kay Ray



POUNDS EX 0554



Status Report Pursuant to Servicemembers Civil Relief Act

Last Name: STANCILFirst Name: AMANDA

Middle Name:

Active Duty Status As Of: Jan-08-2016

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individual's active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

Mary M. Snavelly-Dixon, Director
Department of Defense - Manpower Data Center
4800 Mark Center Drive, Suite 04E25
Arlington, VA 22350

File #: 246996

POUNDS EX 0555

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense (DoD) that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. § 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via this URL: <https://kb.defense.gov/PublicQueries/publicQuestions/FaqAnswers.jsp?Subject=Locating Service Members or Getting a Mailing Address>. If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. § 521(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d)(1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC § 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

WARNING: This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.

Certificate ID: 25UEI995622B150

OF NORTH CAROLINA		File No. 165 15-CVD-008597	
CUMBERLAND COUNTY		In the General Court of Justice District Court Division	
Name Of Plaintiff(s) PORTFOLIO RECOVERY ASSOC LLC		ARBITRATION NOTICE OF ARBITRATION HEARING	
VERSUS		File Date: 11/17/2015 G.S. 7A-37.1; Rules 5, 6, Rules For Court-Ordered Arbitration in North Carolina and Cumberland County Arbitration Rules	
Name Of Defendant(s) STANCIL, AMANDA		Name of Arbitrator GEORGE J FRANKS, JR	
Date Of Hearing 08/04/2016	Time Of Hearing 09:30 AM	Place Of Hearing: Cumberland County Courthouse 117 Dick Street Fayetteville, NC 28301 Courtroom 4C	
<p>ALL PARTIES TAKE NOTICE that the person named above has been appointed arbitrator in this case, and a hearing will be held at the date, time and place shown above. Failure to appear for the hearing may result in an adverse award and/or sanctions. See Rule 6(l) of the Rules For Court-Ordered Arbitration in North Carolina.</p> <p>This hearing date is a firm date and can not be continued by the Arbitrator. Continuances will not be granted, even if all parties agree, unless for an emergency that could not have been foreseen. In compliance with the Local Rules, any request for continuance must be made in writing to the Trial Court Administrator, PO Box 363, Fayetteville, NC 28302 or sent by fax to (910) 475-3017 and a copy distributed to all opposing parties.</p> <p>If settlement is reached more than 24 hours prior to the scheduled arbitration hearing and the dismissal or consent judgment is filed with the Clerk of Court more than 24 hours prior to the scheduled arbitration, the hearing will be cancelled and no arbitration fee will be assessed; or</p> <p>If settlement is reached less than 24 hours prior to the scheduled arbitration hearing and the dismissal or consent judgment is filed with the Clerk of Court less than 24 hours prior to the scheduled arbitration hearing, the hearing will be cancelled, however, the parties shall be responsible for the arbitration assessment fee; or</p> <p>If settlement is reached less than 24 hours prior to the scheduled arbitration hearing and no dismissal or consent judgment has been filed with the Clerk of Court then the parties shall appear at the hearing to have their agreement entered as the award of the arbitrator and the parties shall be liable for the arbitration assessment fee.</p> <p>Please note G.S. 7A-37.1(c1) sets forth a fee (\$100.00) which shall be assessed per arbitration, to be divided equally among the parties. This fee must be paid absent a finding of partial indigency or indigency. See Rule 5(c) of the Rules for Court-Ordered Arbitration in North Carolina. If any party does not pay, the amount assessed will be docketed as a judgment in favor of the State when the award is filed.</p>			
Date Of Notice 5/26/2016		Arbitration Coordinator: Shannon Callis	
Mailing Address Cumberland County Courthouse PO Box 363 Fayetteville, NC 28302		Telephone No. 910-475-3026 Facsimile No. 910-475-3017	
<p>IMPORTANT:</p> <ul style="list-style-type: none"> THE ATTACHED ARBITRATION PRE-HEARING FORM MUST BE COMPLETED AND EXCHANGED WITH ALL OPPOSING PARTIES AT LEAST 10 DAYS BEFORE THE HEARING. A COPY MUST BE PROVIDED TO THE ARBITRATOR AT THE HEARING. 			

Certificate of Service: This Notice has been distributed to the following: (any omission should be reported to this office)

Plaintiff: ANDREW ELLIOT HOKE PO BOX 110564 DURHAM, NC 27709	*Defendant: 6/7/16 - Ret by PO; No such street; zip code directory indicates these are apt's; AP does not list Apt #; placed in at file AMANDA STANCIL, PRO SE 2804 FOREST GUMP DRIVE FAYETTEVILLE, NC 28304
--	---

FILE NO: _____

PLAINTIFF

VS

DEFENDANT

ARBITRATION PRE-HEARING INFORMATION FORM

This form **MUST** be completed and exchanged with the opposing parties **at least 10 days before the hearing**. These materials shall not be filed with the Court or included in the case file. *Rule 6(d)(3) of the Rules for Court-Ordered Arbitration in North Carolina.*

Pursuant to the Rules for Court-Ordered Arbitration, Plaintiff/Defendant hereby provides the following information:

A) I expect to call the following witnesses to testify in the arbitration hearing:

1. _____

2. _____

3. _____

(I have listed all witnesses I may call. I understand that I am not required to call all the witnesses that I have listed.)

B) I expect to offer the following documents or exhibits into evidence:

1. _____

2. _____

3. _____

(I have attached copies of all the above listed documents and exhibits. I understand that failure to provide all parties with any document at least ten (10) days prior to the hearing may be grounds for its exclusion at the hearing.)

C) It is my contention that the issues involved in this case are stated as follows:

This Pre-Hearing Information Form will be served by United States Mail or hand delivery upon all other parties to this arbitration hearing.

DATE: _____

Signature of Plaintiff ☐ Defendant ☐ Attorney for _____

Any questions concerning arbitration should be addressed to:
Trial Court Administrator's Office, PO Box 363, Fayetteville, NC 28302
ATTN: Arbitration Coordinator, Shannon Callis
Telephone: (910) 475-3026
Facsimile: (910) 475-3017

RIAL COURT ADMINISTRATOR
W CUMBERLAND COUNTY COURTHOUSE

117 DICK STREET

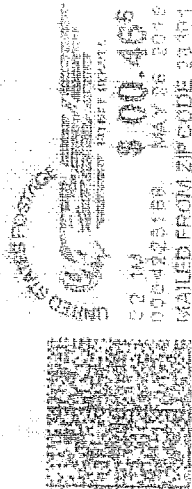
P. O. Box 363

FAYETTEVILLE, N. C. 28302

RETURN SERVICE REQUESTED

FILED

2016 JUN 10 10 10 AM



STANCIL, AMANDA
2804 Forest Gump Drive
Fayetteville, NC 28302

NIXIE 275 DE 1 5005/03/15

RETURN TO SENDER
NO SUCH STREET
UNABLE TO FORWARD

EC 28302036303 03140-17502-07-41

28302036303

Rec 6/7/16

POUNDS EX 0560

STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND

File No.
15-CVD-008597

IN THE GENERAL COURT OF JUSTICE
District Court Division

Plaintiff

PORTFOLIO RECOVERY ASSOC LLC

VS.

Defendant

STANCIL, AMANDA

ARBITRATION

**NOTICE OF CASE SELECTION
FOR ARBITRATION**

File Date: 11/17/2015

GS 7A-37.1 Rules 1, 2, 6, 9, Rules for Court-Ordered Arbitration in North
Carolina and Cumberland County Local Court Rules For Arbitration

TAKE NOTICE that this case has been assigned to arbitration pursuant to N.C. General Statute §7A-37.1 and the Rules for Court Ordered Arbitration.

FURTHER NOTICE will be given of the date, time and place of the hearing which will be scheduled by the person named below in accordance with Rule 6 of the Rules.

The Court automatically assigns to arbitration all civil cases filed in district court with several classes of cases specifically excepted in the rules, including: domestic cases, class actions, special proceedings, wills and estates, summary ejectments, and condemnation actions. See Rule 2(a)(1) of the Rules for Court-Ordered Arbitrations in North Carolina.

The Court selects and maintains a list of qualified arbitrators who are experienced trial attorneys. The Court will appoint an arbitrator from the Court's list in accordance with Rule 4 of the Rules for Court-Ordered Arbitration in North Carolina.

All parties in this civil action shall be present at the hearing in person or through counsel. Parties may appear *pro se* as permitted by law. Corporations must be represented by an attorney. See *Lexis-Nexis v. Travishan Corp.*, 155 N.C. App. 205, 573 S.E.2d 547 (2002). The parties may agree in writing to rely on stipulations and/or statements rather than live testimony of witnesses.

The time allocated for the entire hearing is one hour. Traditional rules of evidence and procedure will not apply, but shall be considered as a guide toward full and fair development of the facts. The arbitrator will render a decision within three (3) days after the hearing. The award is not binding. Any party dissatisfied with the outcome can reject the award and have a trial *de novo* after proper motion before the Court. The award rejection and demand for a trial *de novo* must be filed with the Court within thirty (30) days after the service of the arbitrator's award. The rejecting party must also pay a fee equivalent to the arbitrator's compensation unless the party is found to be indigent or partially indigent. This fee will be returned only if there is a trial in which, in the judge's opinion, the demanding party's position is improved over the arbitrator's award [Rule 9(b)]. Cases still pending after the 30-day rejection period in which no demand for trial *de novo* is filed will have the award of the arbitrator entered by the Court as its judgment, which is not appealable.

For further information on arbitration:

- Visit the North Carolina Court System web site at: WWW.NCCOURTS.ORG/SUPPORT/FAQS/FAQS.ASP?TYPE=6
- Mail a self-addressed, stamped envelope (\$0.48) to the Trial Court Administrator's Office, PO Box 363, Fayetteville, NC 28302, so that we may mail you printed information about Arbitration; or
- **Contact Shannon Callis, Arbitration Coordinator at (910) 475-3026**

Date Issued:

4/19/2016

Trial Court Administrator

Ellen B. Hancox

Address and Telephone Number

P.O. Box 363, Fayetteville, NC 28302
(910) 475-3018
Fax (910) 475-3017

Copies of this Notice have been distributed to the following: (Any omission of counsel should be reported to this office.)

HOKE, ANDREW, ELLIOT

X Pro Se - STANCIL, AMANDA

IMPORTANT:

- All counsel/parties have a continuing obligation to notify this office of any correction/addition/deletion of counsel and changes in contact information.
- If the issue for hearing has been resolved, please return this notice with appropriate orders/dismissals attached.

CCDC-Arb Select
Revised 5/12

4/27/16 - Ret by PO; NSF address; zip code directory indicates these are apartments; AP does not list an apt #; placed in ct file

POUNDS EX 0561

UNIVERSITY OF CALIFORNIA
LIBRARY
100 S. BAY
LOS ANGELES, CALIF. 90024

276 DE 1 0004/23/13

[illegible]

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 五
 六
 七
 八
 九
 十

0314

Doc 4/27/16

STATE OF NORTH CAROLINA

File No.

15 CVD 8597

Cumberland

County

In The General Court Of Justice

☒ District ☐ Superior Court Division

Name Of Plaintiff

PORTFOLIO RECOVERY ASSOCIATES, LLC

Address c/o

Sessoms & Rogers, P.A.

Attorneys for Plaintiff

City, State, Zip

P.O. Box 110564

Durham, North Carolina 27709

VERSUS

Name Of Defendant(s)

AMANDA STENCIL

Date Original Summons Issued

November 17, 2015

Date(s) Subsequent Summons(es) Issued

CIVIL SUMMONS

☒ ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3, 4

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

Amanda Stencil
2804 Forest Gump Drive
Fayetteville, NC 28304

Name And Address Of Defendant 2

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)

Andrew E. Hoke
Sessoms & Rogers, P.A.
P.O. Box 110564
Durham, North Carolina 27709

Date Issued

2/5/16

Time

11:01

☒ AM

☐ PM

Signature

Andrew E. Hoke

☒ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

☐ ENDORSEMENT (ASSESS FEE)

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM

☐ PM

Signature

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

NOTE TO PARTIES: Many counties have MANDATORY ARBITRATION programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

246996.001

AOC-CV-100, Rev. 6/11

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(Over)



* A P O O D O 2 4 6 9 9 6 *

POUNDS EX 0563

RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

DEFENDANT 1

Date Served 2-15-16	Time Served 1026	<input checked="" type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant AMANDA SANCIL
------------------------	---------------------	--	------------------------------------

- ☒ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

☐ Other manner of service (specify)

☐ Defendant WAS NOT served for the following reason:

DEFENDANT 2

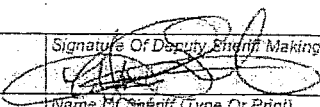
Date Served	Time Served	<input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
-------------	-------------	---	-------------------

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

☐ Other manner of service (specify)

☐ Defendant WAS NOT served for the following reason:

Service Fee Paid \$	Signature Of Deputy Sheriff Making Return 
Date Received 2-5-16	Name Of Sheriff (Type Or Print) EMILY D. DUFF
Date Of Return 2-15-16	County Of Sheriff Durham County, NC

SESSOMS & ROGERS, P.A.
ATTORNEYS AT LAW

MAILING ADDRESS:
P.O. Box 110564
DURHAM, NC 27709

TELEPHONE (919) 688-1000
FACSIMILE (919) 688-9000

February 1, 2016

Clerk of Superior Court
Cumberland County Courthouse
P.O. Box 363
Fayetteville, North Carolina 28302

Re: Portfolio Recovery Associates, LLC
v.
Amanda Stancil
Cumberland County Case No. 15 CvD 8597

FILED
2016 FEB - 2 AM 11:00
CUMBERLAND CO., C.S.C.
BY

Dear Sir or Madam:

Our firm represents Portfolio Recovery Associates, LLC, the Plaintiff in the above captioned matter. Since the original summons was returned unserved, we are enclosing an alias and pluries summons, an additional copy of the complaint, and checks for the filing fee and service fee respectively. Please issue the alias and pluries summons, forward the original along with the Defendant's copy thereof, together with the enclosed trust account check for service to the Cumberland County Sheriff's Department. Please return the extra file-stamped copy of the alias and pluries summons to our office at the address above for our file.

Thank you very much for your assistance. If you have any questions or need any additional information, please contact our office.

Sincerely yours,

SESSOMS & ROGERS, P.A.

S&R:tch
Enclosures
246996.001

POUNDS EX 0565

VCAP Yes xxxx		File Number: 15CND 8597
A&P Endorsement	21455 \$ 15.00	Payor: Sessoms + Rogers PA
Attorney Fees	26120 \$	
Arbitration Appeal	24310 \$	
Assignment of Judgment	21400 \$	
Bond Forfeiture Judgment	22800 \$	Payee: Portfolio Recovery assoc LLC
Bond Forfeiture Cost	26115 \$	Filing Fees: CVSC \$ CVDC \$
Cash Bond	26210 \$	
Claim of Lien	21435 \$	Counterclaim Cross claim Third party complaint
Complex Business Case	21122 \$	
Condemnation	26130 \$	LTD Driving Privilege: 24335 \$
Confession of Judgment	21400 \$	
Disputed Funds	26600 \$	Judgment Payment: 26115 \$
Execution	21430 \$	
Lis Pendens	21435 \$	Full Partial
Misc	21400 \$	
Motion	21450 \$	Total: \$ 15.00
Pro Hac Vice (\$200)	24625 \$	
Pro Hac Vice (\$25)	24626 \$	Date: 2/5/16
Registrations	21400 \$	
Rent Bond	26220 \$	Reviewed By: (am)
Supplemental Proceeding	21400 \$	
Surplus Funds	26600 \$	
Transcript	21440 \$	
Trust	26310 \$	
Upset Bid	26700 \$	
Writ	21400 \$	

CLERK L. JRT

3206251 02/05/16 12:34:36

PAYOR: SERRANO & ROGERS PA

PAYEE: PORTFOLIO RECOVERY ASSOC LLC

CASE#: 1501000597 VCAP:1

CITY#:

21455 AAP/ENDORSE FEE 15.00

TOTAL PAID 15.00

CO TENDERED 15.00

CHANGE .00

6383 10 CENNY

POUNDS EX 0567

am

STATE OF NORTH CAROLINA

FILED

File No.

50VD8597

Cumberland

County

2015 NOV 17 A 10:51

In The General Court Of Justice

☒ District ☐ Superior Court Division

Name Of Plaintiff

PORTFOLIO RECOVERY ASSOCIATES, LLC

Address c/o

Sessoms & Rogers, P.A.

Attorneys for Plaintiff

City, State, Zip

P.O. Box 110564

Durham, North Carolina 27709

VERSUS

Name Of Defendant(s)

AMANDA STANCIL

CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3, 4

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

Amanda Stancil

606 Dashland Drive

Fayetteville, NC 28303

Name And Address Of Defendant 2

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)

Andrew E. Hoke

Sessoms & Rogers, P.A.

P.O. Box 110564

Durham, North Carolina 27709

Date Issued

11-17-15

Time

10:51

☐ AM

☐ PM

Signature

P. May

☒ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

☐ ENDORSEMENT (ASSESS FEE)

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM

☐ PM

Signature

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

NOTE TO PARTIES: Many counties have MANDATORY ARBITRATION programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

246996.001

AOC-CV-100, Rev. 6/11

© 2011 Administrative Office of the Courts

(Over)



* S U O O O O 2 4 6 9 9 6 *

POUNDS EX 0568

RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

DEFENDANT 1

Date Served	Time Served	<input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
-------------	-------------	---	-------------------

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

☐ Other manner of service (specify)

☒ Defendant WAS NOT served for the following reason:

The Defendant parents advised she does not live with them.

DEFENDANT 2

Date Served	Time Served	<input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
-------------	-------------	---	-------------------

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

☐ Other manner of service (specify)

☐ Defendant WAS NOT served for the following reason.

Service Fee Paid

\$

Signature Of Deputy Sheriff Making Return

Date Received

11-18-15

Name Of Sheriff (Type Print) **Earl R. Butler**
Cumberland County

Date Of Return

12-2-15

County Of Sheriff **Fayetteville, N.C.**

STATE OF NORTH CAROLINA

Cumberland

County

File No.

15CWD 8597

FILED

In The General Court Of Justice

☒ District ☐ Superior Court Division

Name And Address Of Plaintiff 1

Portfolio Recovery Associates, LLC
c/o Sessoms & Rogers, P.A.
P.O. Box 110564
Durham, North Carolina 27709

2015 NOV 17 A 10:50

GENERAL

CIVIL ACTION COVER SHEET

☒ INITIAL FILING☐ SUBSEQUENT FILING

Rule 5(b), General Rules of Practice For Superior and District Courts

Name And Address Of Plaintiff 2

Name And Address Of Attorney Or Party, If Not Represented (complete for initial appearance or change of address)

Andrew E. Hoke

P.O. Box 110564

Durham, North Carolina 27709

VERSUS

Name Of Defendant 1

Amanda Stancil

Telephone No.

(919) 688-1000

Cell Telephone No.

NC Attorney Bar No.

44463

Attorney E-Mail Address

Summons Submitted

☒ Yes ☐ No☐ Initial Appearance in Case☐ Change of Address

Name Of Defendant 2

Name Of Firm

Sessoms & Rogers, P.A.

FAX No.

(919) 688-9000

Counsel for

☒ All Plaintiffs ☐ All Defendants ☐ Only (List party(ies) represented)

Summons Submitted

☒ Yes ☐ No☐ Jury Demanded In Pleading☐ Complex Litigation☐ Amount in controversy does not exceed \$15,000☐ Stipulate to arbitration

TYPE OF PLEADING

(check all that apply)

- ☐ Amend (AMND) Assess Motions Fee (SEE NOTE)
☐ Amended Answer/Reply (AMND-Response) Assess Motions Fee (SEE NOTE)
☐ Amended Complaint (AMND) Assess Motions Fee
☐ Answer/Reply (ANSW-Response) (SEE NOTE)
☐ Change Venue (CHVN) Assess Motions Fee
☒ Complaint (COMP)
☐ Confession Of Judgment (CNFJ)
☐ Consent Order (CONS)
☐ Consolidate (CNSL) Assess Motions Fee
☐ Contempt (CNTP) Assess Motions Fee
☐ Continue (CNTN) Assess Motions Fee
☐ Compel (CMPL) Assess Motions Fee
☐ Counterclaim (CTCL) Assess Court Costs
☐ Crossclaim (List On Back) (CRSS) Assess Court Costs
☐ Dismiss (DISM) Assess Court Costs
☐ Exemplify/Waive Mediation (EXMD) Assess Motions Fee
☐ Extend Statute Of Limitations, Rule 9 (ESOL) Assess Motions Fee
☐ Extend Time For Complaint (EXCO) Assess Motions Fee

NOTE: See Side Two for a list of motions not subject to the motions fee.

(check all that apply)

- ☐ Failure To Join Necessary Party (FJNP) Assess Motions Fee
☐ Failure To State A Claim (FASC)
☐ Improper Venue/Division (IMVN) Assess Motions Fee
☐ Intervene (INTR) Assess Motions Fee
☐ Interplead (OTHR) Assess Motions Fee
☐ Lack Of Jurisdiction (Person) (LJP) Assess Motions Fee
☐ Lack Of Jurisdiction (Subject Matter) (LJSM) Assess Motions Fee
☐ Rule 12 Motion In Lieu Of Answer (MDLA) Assess Motions Fee
☐ Sanctions (SANC) Assess Motions Fee
☐ Set Aside (OTHR) Assess Motions Fee
☐ Show Cause (SHOW) Assess Motions Fee
☐ Transfer (TRFR) Assess Motions Fee
☐ Third Party Complaint (List Third Party Defendants on Back) (TPCL)
☐ Vacate/Modify Judgment (VCMJ) Assess Motions Fee
☐ Withdraw as Counsel (WDCN) Assess Motions Fee
☐ Other (specify and list each separately)

NOTE: Assess fee only if court permission is required to amend.

CLAIMS FOR RELIEF

- | | | |
|--|---|--|
| <input type="checkbox"/> Administrative Appeal (ADMA) | <input type="checkbox"/> Injunction (INJU) | <input type="checkbox"/> Limited Driving Privilege - Out-Of-State Convictions (PLDP) |
| <input type="checkbox"/> Appointment Of Receiver (APRC) | <input type="checkbox"/> Medical Malpractice (MDML) | <input type="checkbox"/> Possession Of Personal Property (POPP) |
| <input type="checkbox"/> Attachment/Garnishment (ATTC) | <input type="checkbox"/> Minor Settlement (MSTL) | <input type="checkbox"/> Product Liability (PROD) |
| <input type="checkbox"/> Claim And Delivery (CLMD) | <input type="checkbox"/> Money Owed (MNYO) | <input type="checkbox"/> Real Property (RLPR) |
| <input checked="" type="checkbox"/> Collection On Account (ACCT) | <input type="checkbox"/> Negligence - Motor Vehicle (MVNG) | <input type="checkbox"/> Specific Performance (SPPR) |
| <input type="checkbox"/> Condemnation (CNDM) | <input type="checkbox"/> Negligence - Other (NEGO) | <input type="checkbox"/> Other (specify and list separately) |
| <input type="checkbox"/> Contract (CNTR) | <input type="checkbox"/> Motor Vehicle Lien G.S. 44A (MVLN) | |
| <input type="checkbox"/> Discovery Scheduling Order (DSCH) | | |

Date

November 3, 2015

Signature Of Attorney/Party

NOTE: All filings in civil actions shall include as the first page of the filing a cover sheet summarizing the critical elements of the filing in a format prescribed by the Administrative Office of the Courts, and the Clerk of Superior Court shall require a party to refile a filing which does not include the required cover sheet. For subsequent filings in civil actions, the filing party must either include a General Civil (AOC-CV-751), Motion (AOC-CV-752) or Court Action (AOC-CV-753) cover sheet.

AOC-CV-751, Rev. 6/11, © 2011 Administrative Office of the Courts

(Over)

POUNDS EX 0570

POUNDS EX 0571

STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

15 CivD

8597

PORTFOLIO RECOVERY ASSOCIATES, LLC,)

Plaintiff)

vs.)

AMANDA STANCIL,)

Defendant)

COMPLAINT

FILED
2015 NOV 17 A 10 11
CLERK OF COURT

The Plaintiff, complaining of the Defendant, alleges and says as follows:

1. The Plaintiff, a limited liability company organized under the laws of the state of Delaware, with a principal office and place of business in Norfolk, Virginia, is duly licensed as a collection agency in North Carolina by the Department of Insurance and has been issued permit number 4132.

2. The Defendant is a resident of Cumberland County, North Carolina.

3. Pursuant to an agreement entered into between the Defendant and the Plaintiff's predecessor in interest, GE Capital Retail Bank f/k/a GE Money Bank, a credit account (hereinafter "Account") was opened and credit extended to the Defendant.

4. The Defendant incurred debt on the Account, as shown by the account statements attached and incorporated herein by reference as Exhibit A. These statements provide an ongoing itemization of the charges and fees incurred to the Account and reflect how they were calculated. The last payment made to the account was received on January 10, 2013.

5. The Defendant defaulted by failing to make all payments owed on the Account when due. The Account was subsequently charged-off, assigned and acquired by the Plaintiff.

POUNDS EX 0572

Documentation evidencing the complete chain of assignment is attached and incorporated herein as Exhibit B.

6. Notice of intent to file legal action was sent to Defendant at least thirty (30) days prior to the filing of this action.

7. As shown by the attached Exhibits, the Defendant remains lawfully indebted to the Plaintiff in the amount of \$1,005.85. Said amount includes any offsets and credits to which the Defendant is lawfully entitled.

WHEREFORE, the Plaintiff prays the Court as follows:

1. That the Plaintiff have and recover from the Defendant the amount of \$1,005.85.
2. No interest whatsoever.
3. That the Plaintiff further recover from said Defendant all costs of this action.
4. For such other and further relief as the Court may deem just and proper.

This the 10th day of November, 2015.

SESSOMS & ROGERS, P.A.

By: 

Andrew E. Hoke
Attorney for Plaintiff
P.O. Box 110564
Durham, North Carolina 27709
Telephone: (919) 688-1000

POUNDS EX 0573



Transaction Summary (Continued)					
Tran Date	Post Date	Reference Number	Plan Type	Description of Transaction or Credit	Amount
TOTAL INTEREST FOR THIS PERIOD					\$18.32
2013 Totals Year-To-Date					
Total Fees charged in 2013				\$0.00	
Total Interest charged in 2013				\$18.32	
Total Interest Paid in 2013				\$5.09	

Interest Charge Calculation					
Your Annual Percentage Rate (APR) is the annual interest rate on your account.					
Type of Balance	Expiration Date	ANNUAL PERCENTAGE RATE	Balance Subject to Interest Rate	Interest Charge	Balance Method
Current Transactions					
Regular Purchases	N/A	24.49%	\$843.28	\$17.55	2D
Transactions on or before 03/01/2011					
Regular Purchases	N/A	23.49%	\$38.98	\$0.77	2D

Cardholder News and Information

You have recently been unenrolled from electronic statement delivery. You may have opted to stop receiving electronic statements, or this may have occurred because of changes in your account or failure to comply with the Terms and Conditions of the electronic statement service. Please feel free to reenroll at any time.

Cardholder Benefits and Information

Sign up for electronic statements - just go to www.belkcredit.com/bill.



Interest Charge Calculation(Continued)					
Type of Balance	Expiration Date	ANNUAL PERCENTAGE RATE	Balance Subject to Interest Rate	Interest Charge	Balance Method
Regular Purchases	N/A	24.49%	\$0.00	\$0.00	2D
Transactions on or before 03/01/2011					
Regular Purchases	N/A	23.49%	\$0.00	\$0.00	2D

Cardholder News and Information

Please Note: Enclosed is the Privacy Policy for this account. Please take a moment to read it, then keep it with other financial documents. If you have previously opted-out, you do not need to do so again.

Cardholder Benefits and Information

Sign up for electronic statements - just go to www.belkcredit.com/ebill.



GE Capital

BILL of SALE

PRA PLCC Fresh – September 2013

For value received and in further consideration of the mutual covenants and conditions set forth in the Forward Flow Receivables Purchase Agreement (the "Agreement"), dated as of this 9th day of July, 2013 by and between General Electric Capital Corporation, GE Capital Retail Bank, GEMB Lending, Inc., Monogram Credit Services, L.L.C., RFS Holding, L.L.C., and GEM Holding, L.L.C. (collectively "Seller") and Portfolio Recovery Associates, LLC ("Buyer"), Seller hereby transfers, sells, conveys, grants, and delivers to Buyer, its successors and assigns, without recourse except as set forth in the Agreement, to the extent of its ownership, the Receivables as set forth in the Notification Files (as defined in the Agreement), delivered by Seller to Buyer on September 19, 2013, and as further described in the Agreement.

GE Capital Retail Bank

By: Ken Wojcik
Ken Wojcik

Title: EVP Collections & Recovery

Date: 10-2-13

General Electric Capital Corporation

By: Ken Wojcik
Attorney in Fact Ken Wojcik

Date: 10-2-13

GEMB Lending, Inc.

By: Ken Wojcik
Attorney in Fact Ken Wojcik

Date: 10-2-13

Monogram Credit Services, L.L.C.

By: Ken Wojcik
Attorney in Fact Ken Wojcik

Date: 10-2-13

RFS Holding, L.L.C.

By: Ken Wojcik
Attorney in Fact Ken Wojcik

Date: 10-2-13

GEM Holding, L.L.C.

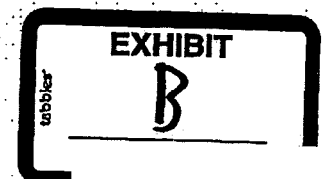
By: Ken Wojcik
Attorney in Fact Ken Wojcik

Date: 10-2-13

Portfolio Recovery Associates, LLC

By: Andrew J. Silberman

Title: Attorney in Fact



POUNDS EX 0578

ACCTNUM	██████████1436
MKR_FN	AMANDA
MKR_LN	STANCIL
CMPNY_NAME	
MKR_TAXID	██████████5158
MKR_AD1	350 DEXTER LN APT 307
MKR_AD2	
MKR_AD3	
MKR_CITY	FAYETTEVILLE
MKR_ST	NC
MKR_ZIP	28314-0467
MKR_HP	9109225985
MKR_WP	0000000000
MKR_BARDATE	0
MKR_BKCHAP	
MKR_CASENUM	
MKR_DISCHOTE	0
MKR_DISMSDTE	0
MKR_BKMEETDTE	0
MKR_BKCQRT	
MKR_BKFILEDT	0
ECOA	1
PENDATE	20071021
CHGOFF_DATE	20130814
RMSLASTPMT	20130110
LASTPMTAMT	170
BRANCH	CB93
DOFD	20130213
CHGOFFCODE	UNPY
LOSSAMT	1005.85
CURBAL	1005.85
RMSFILENUM	70667937
ACCTSTS	SF5
STSDISC	Sales - Final - Primary Random Sale
JDGDATE	0
OFF_CODE	MPL467
OFF_DESC	Belk Rewards Card
BCLE	0181
BCLE_DESC	Retail Bank
BUYERCODE	PR1S
INT_RATE	24.49
NET_COSTS	0
T_INTEREST	644.43
NET_PRINCIPAL	361.42
PRINC_LOSS	361.42

POUNDS EX 0579

ASSOC_COSTS	0
ACCRD_INT	644.43
ASTPURCHDT	20111004
CMKR_FN	
CMKR_LN	
CMKR_TAXID	
CMKR_ADDR1	
CMKR_ADDR2	
CMKR_CITY	
CMKR_STATE	
CMKR_ZIP	
CMKR_LIABLE	
MKR_DOB	
LANG_IND	EN

Data printed by Portfolio Recovery Associates, LLC from electronic records
provided by GE CAPITAL RETAIL BANK pursuant to the sale of accounts from GE CAPITAL RETAIL BANK
to Portfolio Recovery Associates, LLC

POUNDS EX 0581

SESSOMS & ROGERS, P.A.
ATTORNEYS AT LAW

MAILING ADDRESS:
P.O. Box 110564
DURHAM, NC 27709

TELEPHONE (919) 688-1000
FACSIMILE (919) 688-9000

November 3, 2015

Clerk of Superior Court
Cumberland County Courthouse
P.O. Box 363
Fayetteville, North Carolina 28302

Re: Portfolio Recovery Associates, LLC
v.
Amanda Stancil

FILED
2015 NOV 17 A 10:50
CUMBERLAND CO., C.S.C.
BY _____

Dear Sir or Madam:

Our firm represents Portfolio Recovery Associates, LLC, the Plaintiff in the above captioned matter. In that regard, we are enclosing the original and two (2) copies of the Complaint and Civil Summons in this case, along with our trust account check for the filing fee. Please file the Complaint, issue the summons, and forward the Defendant's copy along with the enclosed check for service, to the Cumberland County Sheriff's office. Please return the extra file-stamped copy of the Summons and Complaint to our office at the address above for our file.

Thank you very much for your assistance. If you have any questions with respect to this matter, or if you need any additional information, please contact our firm at the address above.

Sincerely yours,

SESSOMS & ROGERS, P.A.

S&R:mrg
Enclosures
246996.001

POUNDS EX 0582

11/11/16
11/11/16
11/11/16

VCAP Yes xxxx		File Number: 15 CVD 8597
A&P, Endorsement	21455 \$	Payor: Sessemis & Rogers
Attorney Fees	26120 \$	
Arbitration Appeal	24310 \$	
Assignment of Judgment	21400 \$	
Bond Forfeiture Judgment	22800 \$	Payee: Portfolio Recovery Assoc. LLC
Bond Forfeiture Cost	26115 \$	
Cash Bond	26210 \$	
Claim of Lien	21435 \$	
Complex Business Case	21122 \$	Filing Fees: CVSC \$
Condemnation	26130 \$	CVDC \$ 150
Confession of Judgment	21400 \$	Counterclaim Cross claim Third party complaint
Disputed Funds	26600 \$	
Execution	21430 \$	LTD Driving Privilege: 24335 \$
Lis Pendens	21435 \$	
Misc	21400 \$	
Motion	21450 \$	
Pro Hac Vice (\$200)	24625 \$	Judgment Payment: 26115 \$
Pro Hac Vice (\$25)	24626 \$	
Registrations	21400 \$	Full Partial
Rent Bond	26220 \$	
Supplemental Proceeding	21400 \$	Total: \$
Surplus Funds	26600 \$	150
Transcript	21440 \$	Date:
Trust	26310 \$	11-17-15
Upset Bid	26700 \$	Reviewed By:
Writ	21400 \$	PM

CLARENDON COUNTY CLERK

URT

1339012 11/10/15 08:37:04

PAYOR: SESSONS & ROGERS

PAYEE: FORTIFIED RECOVERY ASSOC, LLC

CASE#: 15CV000897 COMPANY

CITIZEN

21220 10-DIVIL FEES

1271.54

21221 08-DIV LSA FEES

51.45

21681 010-TECH & FOC

51.50

21220 10-FAC FEE D. PL

18.00

TOTAL PAID

156.00

DO TENDERED

156.00

CHANGE

1.00

6167 10-RECEIVED

POUNDS EX-0585

STATE OF NORTH CAROLINA

File No.

16-CVD-

Wake

County **FILED**

In The General Court Of Justice
☒ District ☐ Superior Court Division

Name And Address Of Plaintiff 1

Reba Palmer

c/o Carlene McNulty, Esq.

North Carolina Justice Center, 224 South Dawson St. (27601)

P.O. Box 28068, Raleigh, NC 27611

2016 JUN 23 P 3:34

WAKE CO. C.S.C.

GENERAL

CIVIL ACTION COVER SHEET

☒ INITIAL FILING ☐ SUBSEQUENT FILING

Name And Address Of Plaintiff 2

Rule 5(b), General Rules of Practice For Superior and District Courts

Name And Address Of Attorney Or Party, If Not Represented (complete for initial appearance or change of address)

Carlene McNulty, Esq.

North Carolina Justice Center

224 South Dawson St. (27601)

P.O. Box 28068, Raleigh, NC 27611

Telephone No.

919-856-2161

Cellular Telephone No.

919-451-8811

NC Attorney Bar No.

12488

Attorney E-Mail Address

carlene@ncjustice.org

VERSUS

Name Of Defendant 1

Portfolio Recovery Associates, LLC

Summons Submitted

☒ Yes ☐ No

☒ Initial Appearance in Case

☐ Change of Address

Name Of Defendant 2

Name Of Firm

North Carolina Justice Center

FAX No.

919-856-2175

Counsel for

☒ All Plaintiffs ☐ All Defendants ☐ Only (list party(ies) represented)

Summons Submitted

☐ Yes ☐ No

☐ Jury Demanded In Pleading

☐ Complex Litigation

☒ Amount in controversy does not exceed \$15,000

☐ Stipulate to arbitration

TYPE OF PLEADING

(check all that apply)

- ☐ Amend (AMND)
- ☐ Amended Answer/Reply (AMND-Response)
- ☐ Amended Complaint (AMND)
- ☐ Assess Costs (COST)
- ☐ Answer/Reply (ANSW-Response) (see Note)
- ☐ Change Venue (CHVN)
- ☒ Complaint (COMP)
- ☐ Confession Of Judgment (CNJF)
- ☐ Consent Order (CONS)
- ☐ Consolidate (CNSL)
- ☐ Contempt (CNTP)
- ☐ Continue (CNTN)
- ☐ Compel (CMPL)
- ☐ Counterclaim (CTCL) Assess Court Costs
- ☐ Crossclaim (list on back) (CRSS) Assess Court Costs
- ☐ Dismiss (DISM) Assess Court Costs
- ☐ Exempt/Waive Mediation (EXMD)
- ☐ Extend Statute Of Limitations, Rule 9 (ESOL)
- ☐ Extend Time For Complaint (EXCO)
- ☐ Failure To Join Necessary Party (FJNP)

(check all that apply)

- ☐ Failure To State A Claim (FASC)
- ☐ Implementation Of Wage Withholding In Non-IV-D Cases (OTHR)
- ☐ Improper Venue/Division (IMVN)
- ☐ Including Attorney's Fees (ATTY)
- ☐ Intervene (INTR)
- ☐ Interplead (OTHR)
- ☐ Lack Of Jurisdiction (Person) (LJPN)
- ☐ Lack Of Jurisdiction (Subject Matter) (LJSM)
- ☐ Modification Of Child Support In IV-D Actions (MSUP)
- ☐ Notice Of Dismissal With Or Without Prejudice (VOLD)
- ☐ Petition To Sue As Indigent (OTHR)
- ☐ Rule 12 Motion In Lieu Of Answer (MDLA)
- ☐ Sanctions (SANC)
- ☐ Set Aside (OTHR)
- ☐ Show Cause (SHOW)
- ☐ Transfer (TRFR)
- ☐ Third Party Complaint (list Third Party Defendants on back) (TPCL)
- ☐ Vacate/Modify Judgment (VCMD)
- ☐ Withdraw As Counsel (WDCN)
- ☐ Other (specify and list each separately)

NOTE: All filings in civil actions shall include as the first page of the filing a cover sheet summarizing the critical elements of the filing in a format prescribed by the Office of the Courts, and the Clerk of Superior Court shall require a party to refile a filing which does not include the required cover sheet. For actions, the filing party must either include a General Civil (AOC-CV-751), Motion (AOC-CV-752), or Court Action (AOC-CV-753) cover sheet.

AOC-CV-751, Rev. 1/14

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(Over)

EXHIBIT

42

POUNDS EX 0586

CLAIMS FOR RELIEF

- | | | |
|--|---|--|
| <input type="checkbox"/> Administrative Appeal (ADMA) | <input type="checkbox"/> Limited Driving Privilege - Out-Of-State | <input type="checkbox"/> Product Liability (PROD) |
| <input type="checkbox"/> Appointment Of Receiver (APRC) | <input type="checkbox"/> Convictions (PLDP) | <input type="checkbox"/> Real Property (RLPR) |
| <input type="checkbox"/> Attachment/Garnishment (ATTC) | <input type="checkbox"/> Medical Malpractice (MDML) | <input type="checkbox"/> Specific Performance (SPPR) |
| <input type="checkbox"/> Claim And Delivery (CLMD) | <input type="checkbox"/> Minor Settlement (MSTL) | <input checked="" type="checkbox"/> Other (specify and list each separately) |
| <input type="checkbox"/> Collection On Account (ACCT) | <input type="checkbox"/> Money Owed (MNYO) | <i>Unfair debt collect</i> |
| <input type="checkbox"/> Condemnation (CNDM) | <input type="checkbox"/> Negligence - Motor Vehicle (MVNG) | |
| <input type="checkbox"/> Contract (CNTR) | <input type="checkbox"/> Negligence - Other (NEGO) | |
| <input type="checkbox"/> Discovery Scheduling Order (DSCH) | <input type="checkbox"/> Motor Vehicle Lien G.S. 44A (MVLN) | |
| <input type="checkbox"/> Injunction (INJU) | <input type="checkbox"/> Possession Of Personal Property (POPP) | |

Date

06/23/2016

Signature Of Attorney/Party

FEES IN G.S. 7A-308 APPLY

Assert Right Of Access (ARAS)
Substitution Of Trustee (Judicial Foreclosure) (RSOT)
Supplemental Procedures (SUPR)

PRO HAC VICE FEES APPLY

Motion For Out-Of-State Attorney To Appear In NC Courts In A Civil Or Criminal Matter (Out-Of-State Attorney/Pro Hac Vice Fee)

No. ☐ Additional Plaintiff(s)

No. ☐ Additional Defendant(s) ☐ Third Party Defendant(s)

Summons
Submitted

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

Plaintiff(s) Against Whom Counterclaim Asserted

Defendant(s) Against Whom Crossclaim Asserted

STATE OF NORTH CAROLINA

16-CVD
160V008165

16-CVD

Wake County

In The General Court Of Justice

☒ District ☐ Superior Court Division

Name Of Plaintiff

Reba Palmer

Address

c/o Calrene McNulty, Esq., North Carolina Justice Center

City, State, Zip

P.O. Box 28068, Raleigh, NC 27611

VERSUS

Name Of Defendant(s)

Portfolio Recovery Associates, LLC

CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3, 4

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

Portfolio Recovery Associates, LLC

c/o Corporation Service Company, its Registered Agent

375 Hillsborough Street

Raleigh, North Carolina 27603-1725

Name And Address Of Defendant 2

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)

Carlene McNulty, Esq.

North Carolina Justice Center

224 South Dawson Street (27601)

P.O. Box 28068, Raleigh, NC 27611

Date Issued

6/23/16

Time

3

☐ AM☒ PM

Signature

☒ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court☐ ENDORSEMENT (ASSESS FEE)

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM☐ PM

Signature

☐ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court

NOTE TO PARTIES: Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

DEFENDANT 1

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
-------------	--	-------------------

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

☐ Other manner of service (specify)

☐ Defendant WAS NOT served for the following reason:

DEFENDANT 2

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
-------------	--	-------------------

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

☐ Other manner of service (specify)

☐ Defendant WAS NOT served for the following reason:

Service Fee Paid \$	Signature Of Deputy Sheriff Making Return
Date Received	Name Of Sheriff (Type Or Print)
Date Of Return	County Of Sheriff

NORTH CAROLINA
WAKE COUNTY

FILED

16CV008165
IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
16-CVD-_____

REBA PALMER,

Plaintiff,

v.

PORTFOLIO RECOVERY ASSOCIATES,
LLC,

Defendant.

2016 JUN 23 P 3:34

WAKE CO., C.S.C.

BY [Signature]

COMPLAINT

Plaintiff complains of defendant Portfolio Recovery Associates, LLC ("PRA") as follows:

1. Plaintiff Reba Palmer, formerly known as Reba Peach, is a citizen and resident of Wake County.
2. Defendant PRA is a "collection agency" and a "debt buyer" within the meaning of those terms as used in N.C.G.S. §§ 58-70-15 and 58-70-155. Defendant is engaged in the collection of debts from North Carolina consumers using the mail, internet and the telephone among other means. At all times relevant to the subject matter of this Complaint, Defendant was engaged in commerce in North Carolina.
3. PRA instituted a civil action against plaintiff, Wake County case no. 15-CVD-4745, *Portfolio Recovery Associates, LLC v. Peach*. As shown by the file in that action, PRA obtained a default judgment against plaintiff. The default judgment was thereafter vacated by order of this court. Following the order setting aside the default judgment, PRA voluntarily dismissed the case.

POUNDS EX 0590

4. A copy of the Order entered by this court vacating PRA's default judgment is attached to this Complaint as Exhibit 1 and is incorporated here by reference, in its entirety. Plaintiff alleges PRA violated N.C.G.S. § 58-70-155 and, consequently, violated N.C.G.S. § 58-70-115(7), in the manner described in the Order.

5. Specifically, plaintiff contends PRA violated section 58-70-115(7) by requesting and obtaining a default judgment in a manner contrary to section 58-70-155: by obtaining the default judgment without filing authenticated business records with the court that provided "[a]n itemization of charges and fees claimed to be owed." Plaintiff alleges the same thing as this court found at paragraph 27 of its Order: "There is nothing in any of PRA's filings that satisfies the 'itemization' requirement other than those charges in the purported account statement referenced in finding of fact 2(a) above [totaling \$527.32]; and, as noted above, this account statement has not been 'properly authenticated.'"

6. As a direct consequence of PRA's violations of North Carolina law as alleged above, defendant has suffered actual injury in that PRA obtained a judgment against her that was obtained in violation of PRA's obligations to defendant under North Carolina law.

7. Because of PRA's violations of North Carolina law as alleged above, defendant is entitled to recover, pursuant to N.C.G.S. § 58-70-130(b), "a penalty in such amount as the court may allow, which shall not be less than five hundred dollars (\$500.00) for each violation nor greater than four thousand dollars (\$4,000) for each violation."

8. In connection with determining the amount of the penalty, plaintiff alleges that PRA's violations as hereinabove alleged were done willfully and knowingly.

9. In connection with determining the amount of the penalty, plaintiff alleges that PRA not only committed the violations alleged above but also submitted documents to the court in

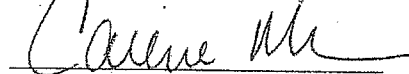
connection with the default judgment process that violated proper affidavit practice and constituted violations of law. Specifically, the Affidavit and Motion for Entry of Default and Judgment by Default was an affidavit by counsel concerning matters of substance; was by a person who had no personal knowledge of certain matters stated in the affidavit; and stated inaccurately that an itemization had been filed with PRA's complaint.

WHEREFORE, plaintiff prays:

1. That plaintiff be granted recovery of the statutory penalty prescribed by N.C.G.S. § 58-70-130(b) in the amount of \$4,000;
2. That plaintiff be awarded attorney fees pursuant to N.C.G.S. sec. 75-16.1; and
3. That the costs of this action be taxed against PRA.

This, the 23rd day of June, 2016.

NORTH CAROLINA JUSTICE CENTER



Carlene McNulty

NC State Bar No. 12488

Jason Pikler

NC State Bar No. 47128

Post Office Box 28068

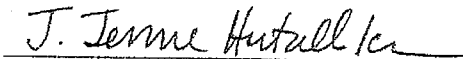
Raleigh, NC 27611

Telephone: (919) 856-2161

Facsimile: (919) 856-2175

Email: carlene@ncjustice.org

jason.pikler@ncjustice.org



J. Jerome Hartzell

N.C. State Bar No. 7775

P.O. Box 10246

Raleigh, NC 27605

Telephone: (919) 819-6173

Email: jerry.hartzell@gmail.com

NORTH CAROLINA
WAKE COUNTY

FILED GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
2016 MAR 29 A 11:37 15 CVD 4745

PORTFOLIO RECOVERY ASSOCIATES, LLC, ~~342~~

Plaintiff

v.

REBA PEACH,

Defendant

ORDER

THIS MATTER came on to be heard and was heard by the undersigned district court judge presiding at the January 7, 2016 Session of Wake County Civil District Court upon defendant Reba Peach's Motion to Set Aside Default Judgment ("Defendant's Motion") filed November 25, 2015, and on Ms. Peach's Motion to Set Aside Entry of Default filed December 15, 2015.

IT APPEARING that attorney Andrew E. Hoke, Sessoms and Rogers, P.A., appeared on behalf of Plaintiff, and that attorneys Carlene McNulty, North Carolina Justice Center, and J. Jerome Hartzell appeared on behalf of Defendant.

After considering the record and the arguments of counsel, reviewing applicable law, and complying with defendant's request for findings of fact and conclusions of law, the Court makes the following:

FINDINGS OF FACT

1. On April 10, 2015, Portfolio Recovery Associates, LLC ("PRA") filed an unverified Complaint in the instant action alleging that defendant ("Ms. Peach") had a credit

EXHIBIT

1

POUNDS EX 0593

account with GE Capital Retail Bank f/k/a GE Money Bank, that Ms. Peach defaulted in her payment obligations on the account, and that the account was acquired by PRA.

2. The following documents were attached to the **unverified** Complaint:

a. Lowe's Visa Rewards Card Account Statement with Ms. Peach's name and an address of "1225 Fedex Dr. SW #404, Conover, NC 28613-7426," along with a redacted account number (last four digits "7944"). This statement had a payment due date of April 2, 2013, and showed: a previous balance of \$2,716.76, one payment of \$500, a detailed list of purchases/debits totaling \$479.29, interest charges of \$48.03, and a new balance of \$2,742.08;

b. Lowe's Visa Rewards Card Account Statement with Ms. Peach's name and an address of "1225 Fedex Dr. SW #404, Conover, NC 28613-7426," along with a redacted account number (last four digits "7944"). This statement had a payment due date of October 10, 2013, and showed a previous balance of \$3,188.93, no payments, and no charges, but two "charge off" entries totaling \$3,188.93, and a current balance of \$0.

c. Bill of Sale dated December 12, 2013, between General Electric Capital Corporation, GE Capital Retail Bank, GEMB Lending, Inc., Monogram Credit Services, L.L.C., RFS Holding, L.L.C., and GEM Holding, L.L.C., collectively as "Seller" and PRA, as "Buyer", that included a one-page computer printout for account number (last 4 digits) 7944 reflecting "Lowe's Visa Rewards", and with Ms. Peach's name and the address that was on the account statements. In bold print at the bottom of this printout is the following: **"Data printed by Portfolio Recovery Associates, LLC from electronic records provided by GE CAPITAL RETAIL BANK pursuant to the sale of accounts from GE CAPITAL RETAIL BANK to Portfolio Recovery Associates, LLC"**.

3. Ms. Peach was served with the Summons that issued on April 13, 2015 and the Complaint by the Wake County Sheriff at 809 Silver Linden Lane, Wake Forest NC 27587 on April 16, 2015.

4. No motion for extension of time or answer was filed with the Clerk within the time allowed by law, and on May 28, 2015, PRA filed an Affidavit and Motion for Entry of Default and Judgment by Default.

5. The Affidavit and Motion for Entry of Default and Judgment by Default includes numerous factual allegations and was sworn to by PRA's attorney, Chelsea E. Uhlman. This motion/affidavit incorporates by reference certain attachments from the Complaint (specifically the two purported account statements and the purported chain of ownership) and it incorporates by reference one page of the Lowe's VISA Rewards Card Account Statement with a payment due date of October 10, 2013 that was included as an attachment to the Affidavit/Motion.

6. The Affidavit and Motion also references an "attached Affidavit of Account", which is an Affidavit signed by Dianna D. Williams and dated December 15, 2014. This Affidavit was included as part of the Affidavit and Motion. Ms. Williams' Affidavit attests, *inter alia*, that Ms. Williams is an employee of PRA and that she reviewed both PRA's records and the "business records of the Original Creditor GE CAPITAL RETAIL BANK/LOWE'S and those records transferred to [PRA] from GE CAPITAL RETAIL BANK, which have become a part of and have integrated into [PRA's] business records in the ordinary course of business." This Affidavit makes further attestations regarding what the records from the GE Capital Retail Bank ("Account Seller") reflect.

7. Ms. Uhlman's Affidavit and Motion for Entry of Default and Default Judgment (including the attachments outlined above) were presented to Assistant Clerk of Superior Court, Hope Satterfield, on or about May 28, 2015. That same day, Ms. Satterfield entered default and default judgment against Ms. Peach in the amount of \$3,188.93.

8. PRA is engaged in the business of purchasing delinquent or charged off consumer credit accounts and is, therefore, a "debt buyer" as that term is defined in North Carolina General Statutes Section 58-70-15(b)(4).

9. The Consumer Economic Protection Act of 2009 (the "Act") became effective in North Carolina on October 1, 2009. The Act heightened the prerequisites¹ for proper entry of default² judgment in a debt buyer action. These additional prerequisites are outlined in N.C. Gen. Stat. §58-70-155 and require that the Plaintiff have filed with the court evidence to establish the amount and nature of the debt, N.C. Gen. Stat. §58-70-155(a), specifically including the following:

- a. The original account number;
- b. The original creditor;
- c. The amount of the original debt;
- d. An itemization of charges and fees claimed to be owed;
- e. The original charge-off balance, or, if the balance has not been charged off, an explanation of the balance was calculated;
- f. An itemization of post charge-off additions, where applicable;
- g. The date of the last payment; and
- h. The amount of interest claimed and the basis for the interest charged.

N.C. Gen. Stat. §58-70-155(b)

10. The Act further provides that the "only evidence sufficient to establish the amount and nature of the debt shall be properly authenticated business records that satisfy the requirements of Rule 803(6) of the North Carolina Rules of Evidence." *Id.* In other words, the heightened evidentiary showing as outlined in finding of fact 9 above can be established **only by properly authenticated business records.**

11. Section 58-70-155(b)'s heightened evidentiary prerequisites in debt buyer cases clearly signal a legislative intent that "something more" is required prior to entry of a default judgment in a debt buyer action than would be required prior to the entry of a default judgment in a debt collection action brought by an original creditor.

¹ Use of the term "prerequisites" as it relates to the heightened evidentiary showing for debt buyers seeking default judgment is found in reference manuals for North Carolina Judges and Clerks of Court. *See e.g., The North Carolina Superior Court Judges' Benchbook* and the *North Carolina Clerk of Superior Court Procedures Manual*.

² These additional prerequisites apply also to the entry of summary judgment.

Ms. Williams' Affidavit

12. Ms. Williams' Affidavit lays a sufficient foundation to show that the PRA business records she reviewed are subject to the 803(6) hearsay exception, and therefore the knowledge she obtained from the review of such records constitutes 'personal knowledge'. However, as it relates to determining whether the heightened evidentiary prerequisites have been met, the court cannot consider the contents of an Affidavit in determining whether default judgment should be entered in a debt-buyer action. The evidentiary showing required by the Act is "properly authenticated business records." Ms. Williams' Affidavit cannot properly be considered by the court in determining whether the Act's prerequisites have been met other than to "properly authenticate" any business records filed with the court. Ms. Williams' Affidavit does not incorporate or otherwise mention any business records filed with the court.

13. Even if Ms. Williams had stated in her Affidavit that the account statement attached to Ms. Uhlman's Motion/Affidavit and the account statements attached to the Complaint were part of the records Ms. Williams' reviewed and that these documents are true and accurate copies of the documents she reviewed, Ms. Williams' Affidavit does not lay a sufficient foundation for their admission under Rule 803(6) since it is likely that these documents came from the Account Seller or the Original Creditor.

14. Hearsay, as defined by the North Carolina Rules of Evidence, is inadmissible unless it is subject to a hearsay exception. "Hearsay within hearsay" is admissible only if each part of the combined statement(s) conforms to an exception.

15. Ms. Williams' Affidavit clearly reveals that PRA's business records include records transferred from the Account Seller. These other records are a second (and perhaps third)

layer of hearsay. Absent a showing that these other records fall within a hearsay exception, these other records are inadmissible hearsay.

16. Ms. Williams' Affidavit is silent as to any knowledge she might have regarding the records keeping system for either the Original Creditor or the Account Seller. *Cf. Moore v. Coachmen Indus.*, 129 N.C. 389, 395 (1998). Her Affidavit is insufficient to show that the Original Creditor's business records or the Account Seller's business records are also subject to Rule 803(6) hearsay exception.

Ms. Uhlman's Affidavit

17. Ms. Uhlman's Motion/Affidavit appears to attest to facts about the account at issue in this case. Yet there are no allegations in the Motion/Affidavit as to how she has first-hand knowledge of these facts. For example, in paragraph 13 of her affidavit she attests as follows: "As this was a credit card account, the origination balance was \$0.00." Likewise, paragraphs 8 – 11 of her Motion/Affidavit make factual allegations from which there is no basis identified of her first-hand knowledge other than she is the attorney for Plaintiff. Without more, this is not sufficient to show that she has first-hand knowledge about the account.

18. While Ms. Uhlman's Motion/Affidavit incorporates by reference the account statements and bill of sale that were attached to the Complaint, as well as the "Charge-off Statement" attached to her Motion, there is nothing in Ms. Uhlman's motion/affidavit from which the court could determine that she is a person who could lay the foundation for PRA's business records or for the business records of the Original Creditor or the Account Seller. Therefore, Ms. Uhlman's Motion/Affidavit (and documents incorporated therein) cannot properly be considered by the court in determining whether the Act's prerequisites have been met.

Itemization of Charges and Fees: G.S. 58-70-155(b)(4)

19. Even if the account statements attached to the Complaint and to Ms. Uhlman's Motion/Affidavit could be considered, these documents are insufficient to satisfy the Act's prerequisite of an "itemization of charges and fees".

20. While there are definitions of the term "itemization" in our General Statutes and case law involving other sections of the General Statutes, Chapter 58 does not define the "itemization of charges and fees claimed to be owed" that must be included in the filings of a plaintiff in a debt-buyer action who is seeking default judgment.

21. Issues of statutory interpretation are questions of law. *Parkdale Am., LLC v. Hinton*, 200 N.C. App. 275, 278 (2009). The primary goal of statutory interpretation is to "ascertain the intent of the legislature and to carry out such intention to the fullest extent." *Id.* (quoting *Brown v. Flowe*, 349 N.C. 520, 523 (1998)). The words used by the legislature are a primary factor to be considered in determining legislative intent. *Id.* If the language in the statute is clear and unambiguous, the Court must apply the plain meaning of the words. *Id.* However, when ambiguities exist, the Court then must attempt to interpret the statute in such a way as to give effect to the legislative intent. *Union v. Branch Banking & Trust Co.*, 176 N.C. App. 711, 717 (2006) (citation omitted). Absent a statutory definition of a word, it is presumed that the legislature intended to give words within a statute their ordinary meaning as determined according to the context in which those words ordinarily are used. *Parkdale*, 200 N.C. App. at 278. However, if giving effect to the plain meaning of the language of a statute will lead to absurd results, or will contravene the purpose of the legislature, the reason and purpose of the law shall control. *Union*, 176 N.C. App. at 717.

22. "Itemize" means "to create a detailed list of things; to set down in detail or by particulars."³

23. In a non-debt buyer case, an affidavit of the amount due and charge-off statement may be sufficient evidence to support entry of default judgment. Given the purpose of the Act, this is clearly not so in a debt buyer action.

24. To construe an "itemization of charges and fees" to be satisfied by the production of a "charge-off" statement and/or an affidavit of the amount alleged to be due is not consistent with the legislative intent behind the Act.

25. To require a debt-buyer to file with the Court the detail of every specific charge ever made or fee assessed over the life a credit card account might, in some instances, be unduly burdensome to the debt-buyer as well as an unnecessary burden on the court to review such documentation.

26. Consistent with the legislative intent behind the Act, the itemization of charges and fees presented in support of a motion for default (or summary) judgment must be detailed and include the particulars of each charge and fee claimed to be unpaid/owed, and this itemization must be the "properly authenticated business records" tendered in support of the motion for default judgment. In other words, there should be business records containing the specific details of individual charges and fees that total at a minimum the amount of the judgment Plaintiff seeks to obtain.

27. There is nothing in any of PRA's filings that satisfies the "itemization" requirement other than those charges in the purported account statement referenced in finding of

³"Itemize." *Merriam-Webster.com* Merriam-Webster, n.d. Web. 10 Feb. 2016.

fact 2(a) above; and, as noted above, this account statement has not been "properly authenticated."

Amount of the Original Debt: G.S. 58-70-155(b)(3)

28. Even if the account statements attached to the Complaint and to Ms. Uhlman's Motion/Affidavit could be considered, they are insufficient to satisfy the Act's prerequisite of "the amount of the original debt."

29. Ms. Uhlman's affidavit was the only submission before the Clerk concerning the "original debt balance." Yet there is nothing in Ms. Uhlman's verified motion that states how she knows the origination balance was zero other than the assumption that: "As this was a credit card account, the origination balance was \$0.00."

30. Hearsay contained in an affidavit and portions of an affidavit that are not based on an affiant's personal knowledge must be ignored by the court. *See, e.g., Moore v. Coachmen Indus.*, 129 N.C. App. 389, 499 S.E. 2d, 772 (1998); *Fuller v. Southland Corp.*, 57 N.C. App. 1, 290 S.E. 2d 754 (1982). While it is not necessary for the affidavit to state that it is based on first-hand knowledge, if it is not apparent from the affidavit that the affiant has first-hand knowledge, then that portion of the affidavit cannot be considered. Certainly assumptions and speculation must be ignored.

31. The purpose of the Act is to protect consumers. In this case, plaintiff failed to tender any "properly authenticated business records" to the court in support of its motion for default judgment. This utter failure to comply with the heightened evidentiary burden when seeking default judgment is good cause to set aside the entry of default.

32. Any finding of fact erroneously denominated as a conclusion of law below is incorporated herein by reference.

CONCLUSIONS OF LAW

1. This Court has jurisdiction over the parties and the subject matter of this action.
2. The proper procedure for a defendant to challenge a default judgment is to first seek relief from the judgment at the trial level. If the trial court denies the relief requested, then the order denying relief is the proper subject of an appeal. *See e.g., Golmon v. Latham*, 183 N.C. App. 150 (2007). Therefore, defendant herein could not have appealed the default judgment to the Court of Appeals without doing that which she did – file a motion seeking to have it set aside in the trial court.
3. The Clerk of Court possesses only such jurisdiction as is prescribed by statute. Rule 55(b)(1) authorizes clerks of court to enter default judgments only “[w]hen the plaintiff’s claim against a defendant is for a sum certain or for a sum which can by computation be made certain”
4. In order for the amount sought in a debt-buyer’s complaint to be a “sum certain,” the Clerk must be able to ascertain the sum by referring to only “properly authenticated business records that satisfy the requirements of Rule 803(6) of the North Carolina Rules of Evidence.” (quoting N.C. Gen. Stat 58-70-155(b)).
5. As outlined above, no properly authenticated business records that satisfy the requirement of Rule 803(6) were tendered to the Court.
6. PRA is a “debt buyer” within the meaning of that term as used in N.C.G.S. § 58-70-155. The instant case is “against a debtor” and involves “a complaint initiated by a debt buyer” within the meaning of the language of N.C.G.S. § 58-70-155(a).
7. N.C.G.S. § 58-70-155 requires, as a “prerequisite” to the entry of a default judgment in a debt buyer case against a debtor, that the debt buyer plaintiff file authenticated

business records containing, among other things, an itemization of the charges and fees claimed to be owed and the amount and basis for claimed interest.

8. PRA failed to comply with all the "prerequisites" of N.C.G.S. § 58-70-155.

9. PRA's filings, including the Complaint, Affidavit and Motion for Entry of Default and Judgment by Default, failed to meet the requirements of Rule 55(b)(1) of a "sum certain or for a sum which can by computation be made," which is a prerequisite to the Clerk having jurisdiction to enter a Default Judgment in this matter.

10. Defendant's Motion has been made within a reasonable time. The allowance of Defendant's Motion would be consistent with the interests of justice because allowing Defendant's Motion would help effectuate legislative intent in N.C.G.S. § 58-70-155, and would insure a judicial process in compliance with those provisions. Ms. Peach's [Proposed] Answer and Counterclaim filed in advance of the hearing on Defendant's Motion appears to present colorable and valid legal defenses to PRA's Complaint. However no findings or conclusions are entered on that issue.

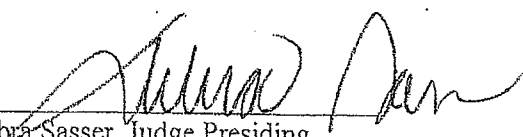
11. As set forth herein, good cause exists for setting aside the Entry of Default.

12. As set forth herein, grounds exist pursuant to Rule 60(b) to set aside the Default Judgment.

13. Any conclusion of law erroneously denominated as a finding of fact above is incorporated herein by reference.

NOW, THEREFORE, it is hereby ORDERED that the Judgment by Default is hereby vacated and set aside pursuant to Rule 60(b), and that the Entry of Default is likewise vacated and set aside.

This, the 29th day of March, 2016.


Debra Sasser, Judge Presiding

CERTIFICATE OF SERVICE


THIS IS TO CERTIFY that the foregoing Order was served on counsel of record for Plaintiff and for Defendant by mailing a copy thereof first class mail, postage prepaid, addressed as follows:

Mr. Andrew E. Hoke
Sessoms & Rogers, P.A.
1822 East NC Highway 54, Suite 200
PO Box 110564
Durham, NC 27709

Ms. Carlene McNulty
North Carolina Justice Center
PO Box 28068
Raleigh, NC 27611

Mr. J. Jerome Hartzell
PO Box 10246
Raleigh, NC 27605

This the 29th day of March, 2016.


Ass't/Deputy Clerk of Court

NORTH CAROLINA
WAKE COUNTY

FILED

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
16-CVD-8165

REBA PALMER,

Plaintiff,

v.

PORTFOLIO RECOVERY
ASSOCIATES, LLC,

Defendant.

2016 JUN 30 P 4:48

WAKE CO., N.C.

BY

AFFIDAVIT OF
SERVICE OF PROCESS

I, Carlene McNulty, hereby certify that, pursuant to Rule 4(j)(6)(d) of the North Carolina Rules of Civil Procedure, I served a copy of the summons and complaint in this matter upon Defendant Portfolio Recovery Associates, LLC, by designated delivery service, as follows:

1. On June 23, 2016, I deposited a true and correct copy of the Summons and Complaint in a properly addressed envelope to Federal Express, as a designated delivery service authorized under G.S. 1A-1, Rule 4(j)(1)(d), and 26 U.S.C. § 7502(f)(2), delivery receipt and direct signature requested, for delivery to addressee: Corporation Service Company, as Registered Agent for Defendant PRA. A copy of the North Carolina Secretary of State's company information sheet listing Corporation Service Company as the authorized Register Agent for PRA is attached hereto as Exhibit A

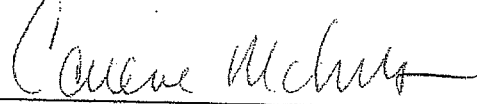
2. On June 24, 2016 said Summons and Complaint was delivered to Corporation Service Company, as Registered Agent for Defendant PRA, by Federal Express Standard Overnight Delivery. A copy of the Federal Express proof-of-delivery receipt evidencing

POUNDS EX 0605

delivery to, and signature confirming receipt by, PRA's authorized Registered Agent is attached hereto as Exhibit B.

This the 29th day of June, 2016.

Respectfully submitted,



Carlene McNulty

NC State Bar No. 12488

NORTH CAROLINA JUSTICE CENTER

224 South Dawson Street, P.O. Box 28068

Raleigh, NC 27611

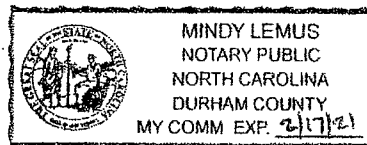
Telephone No.: (919) 856-2161


Facsimile No.: (919) 856-2175

Email: carlene@ncjustice.org

**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

The foregoing Affidavit of Service of Process was acknowledged before me this the 29th day of June, 2016, by Carlene McNulty, Esq., who is personally known to me.




Notary Public

Mindy Lemus

Notary Public Printed Name

[NOTARY SEAL]

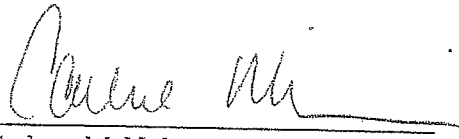
My Commission Expires: 2/17/21

CERTIFICATE OF SERVICE

Undersigned counsel for Plaintiff hereby certifies that on this 29th day of June, 2016, a true and correct copy of the foregoing Affidavit of Service of Process was filed with the Wake County Clerk of Courts Office, with copies served upon the Registered Agent for Defendant PRA by U.S. Mail, postage prepaid, addressed as follows:

Corporation Service Company, as Registered Agent for
Portfolio Recovery Associates, LLC
327 Hillsborough Street
Raleigh, NC 27603-1725

Respectfully submitted,



Carlene McNulty



Elaine F. Marshall
Secretary

North Carolina

**DEPARTMENT OF THE
SECRETARY OF STATE**

PO Box 29822 Raleigh, NC 27626-0822 (919)807-2000

Account
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Register

Click Here To:

View Document Filings File an Annual Report Amend a Previous Annual Report
Print a Pre-Populated Annual Report form

Corporate Names

Legal: Portfolio Recovery Associates, L.L.C

Limited Liability Company Information

SosId: 0612016
Status: Current-Active
Annual Report Status: Current
Citizenship: Foreign
Date Formed: 12/4/2001
Fiscal Month: December
State of Incorporation: DE
Registered Agent: Corporation Service Company

Corporate Addresses

Principal Office: 120 Corporate Boulevard, Suite 100
Norfolk, VA 23502-4962
Mailing: 140 Corporate Blvd
Norfolk, VA 23502-4952
Reg Office: 327 Hillsborough Street
Raleigh, NC 27603-1725
Reg Mailing: 327 Hillsborough Street
Raleigh, NC 27603-1725

Company Officials

All LLCs are managed by their managers pursuant to N.C.G.S. 57D-3-20.

Member: PRA Group, Inc.
120 CORPORATE BOULEVARD, SUITE 100
Norfolk VA 23502

EXHIBIT
A



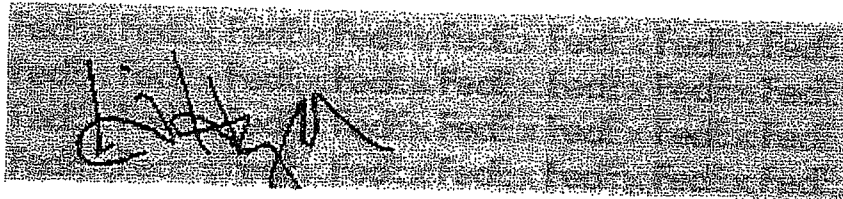
June 27, 2016

Dear Customer:

The following is the proof-of-delivery for tracking number 807599066650.

Delivery Information:

Status:	Delivered	Delivered to:	Receptionist/Front Desk
Signed for by:	H.HUGHES	Delivery location:	327 HILLSBOROUGH ST. NC 27603
Service type:	FedEx Standard Overnight	Delivery date:	Jun 24, 2016 09:35
Special Handling:	Deliver Weekday		
	Direct Signature Required		



Shipping Information:

Tracking number:	807599066650	Ship date:	Jun 23, 2016
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Recipient:
CORPORATION SQUIRE COMPANY
AGENT FOR PORTFOLIO RECOVERY A
327 HILLSBOROUGH ST
NC 27603 US

Reference

Shipper:
CAILONE MCDUTTY ESQ S
NC JUSTICE CENTER
224 S DAWSON ST
RALEIGH, NC 276011306 US
K 16E-4002316

Thank you for choosing FedEx.

EXHIBIT
B

POUNDS EX 0609

NORTH CAROLINA
WAKE COUNTY

FILED

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
16-CVD-8165

REBA PALMER,

Plaintiff,

v.

PORTFOLIO RECOVERY ASSOCIATES,
LLC,

Defendant.

2016 JUL 11 P 2:39

WAKE CO. C.S.C.)

BY RA)

**FIRST AMENDED
COMPLAINT**

NOW COMES Plaintiff Reba Palmer pursuant to Rule 15(a) of the North Carolina Rules of Civil Procedure and amends her Complaint against defendant Portfolio Recovery Associates, LLC ("PRA") and alleges as follows:

1. Plaintiff Reba Palmer, formerly known as Reba Peach, is a citizen and resident of Wake County.

2. Defendant PRA is a "collection agency" and a "debt buyer" within the meaning of those terms as used in N.C.G.S. §§ 58-70-15 and 58-70-155. PRA is engaged in the collection of debts from North Carolina consumers using the mail, internet and the telephone among other means. At all times relevant to the subject matter of this Complaint, PRA was engaged in commerce in North Carolina.

3. PRA instituted a civil action against plaintiff, Wake County case no. 15-CVD-4745, *Portfolio Recovery Associates, LLC v. Peach*. As shown by the file in that action, PRA obtained a default judgment against plaintiff. The default judgment was thereafter vacated by order of this court. Following the order setting aside the default judgment, PRA voluntarily dismissed the case.

POUNDS EX 0610

4. A copy of the Order entered by this court vacating PRA's default judgment is attached to this Complaint as Exhibit 1 and is incorporated here by reference, in its entirety. Plaintiff alleges PRA violated N.C.G.S. § 58-70-155 and, consequently, violated N.C.G.S. § 58-70-115(7), in the manner described in the Order.

5. Specifically, plaintiff contends PRA violated section 58-70-115(7) by requesting and obtaining a default judgment in a manner contrary to section 58-70-155: by obtaining the default judgment without filing authenticated business records with the court that provided "[a]n itemization of charges and fees claimed to be owed." Plaintiff alleges the same thing as this court found at paragraph 27 of its Order: "There is nothing in any of PRA's filings that satisfies the 'itemization' requirement other than those charges in the purported account statement referenced in finding of fact 2(a) above [totaling \$527.32]; and, as noted above, this account statement has not been 'properly authenticated.'"

6. As a direct consequence of PRA's violations of North Carolina law as alleged above, plaintiff has suffered actual injury in that PRA obtained a judgment against her that was obtained in violation of PRA's obligations to plaintiff under North Carolina law.

7. Because of PRA's violations of North Carolina law as alleged above, plaintiff is entitled to recover, pursuant to N.C.G.S. § 58-70-130(b), "a penalty in such amount as the court may allow, which shall not be less than five hundred dollars (\$500.00) for each violation nor greater than four thousand dollars (\$4,000) for each violation."

8. In connection with determining the amount of the penalty, plaintiff alleges that PRA's violations as hereinabove alleged were done willfully and knowingly.

9. In connection with determining the amount of the penalty, plaintiff alleges that PRA not only committed the violations alleged above but also submitted documents to the court in

connection with the default judgment process that violated proper affidavit practice and constituted violations of law. Specifically, the Affidavit and Motion for Entry of Default and Judgment by Default was an affidavit by counsel concerning matters of substance; was by a person who had no personal knowledge of certain matters stated in the affidavit; and stated inaccurately that an itemization had been filed with PRA's complaint.

WHEREFORE, plaintiff prays:

1. That plaintiff be granted recovery of the statutory penalty prescribed by N.C.G.S. § 58-70-130(b) in the amount of \$4,000;
2. That plaintiff be awarded attorney fees pursuant to N.C.G.S. sec. 75-16.1; and
3. That the costs of this action be taxed against PRA.

This, the 11th day of July, 2016.

NORTH CAROLINA JUSTICE CENTER

Carlene McNulty / SP
Carlene McNulty

NC State Bar No. 12488

Jason Pikler

NC State Bar No. 47128

Post Office Box 28068

Raleigh, NC 27611

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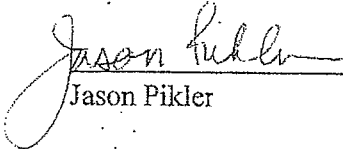
Email: jerry.hartzell@gmail.com

CERTIFICATE OF SERVICE

Undersigned counsel for Plaintiff hereby certifies that on this 11th day of July, 2016, a true and correct copy of the foregoing First Amended Complaint was served upon the Registered Agent for Defendant PRA by Certified Mail/Return Receipt Requested, postage prepaid, addressed as follows:

Corporation Service Company, as Registered Agent for
Portfolio Recovery Associates, LLC
327 Hillsborough Street
Raleigh, NC 27603-1725

Respectfully submitted,



Jason Pikler

NORTH CAROLINA
WAKE COUNTY

FILED GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
2016 MAR 29 A 11:37 15 CVD 4745

WAKE COUNTY, C.S.C.
PORTFOLIO RECOVERY ASSOCIATES, LLC,)
By _____)

Plaintiff)

v.)

REBA PEACH,)

Defendant)

ORDER

THIS MATTER came on to be heard and was heard by the undersigned district court judge presiding at the January 7, 2016 Session of Wake County Civil District Court upon defendant Reba Peach's Motion to Set Aside Default Judgment ("Defendant's Motion") filed November 25, 2015, and on Ms. Peach's Motion to Set Aside Entry of Default filed December 15, 2015.

IT APPEARING that attorney Andrew E. Hoke, Sessoms and Rogers, P.A., appeared on behalf of Plaintiff, and that attorneys Carlene McNulty, North Carolina Justice Center, and J. Jerome Hartzell appeared on behalf of Defendant.

After considering the record and the arguments of counsel, reviewing applicable law, and complying with defendant's request for findings of fact and conclusions of law, the Court makes the following:

FINDINGS OF FACT

1. On April 10, 2015, Portfolio Recovery Associates, LLC ("PRA") filed an unverified Complaint in the instant action alleging that defendant ("Ms. Peach") had a credit



POUNDS EX 0614

account with GE Capital Retail Bank f/k/a GE Money Bank, that Ms. Peach defaulted in her payment obligations on the account, and that the account was acquired by PRA.

2. The following documents were attached to the **unverified** Complaint:

a. Lowe's Visa Rewards Card Account Statement with Ms. Peach's name and an address of "1225 Fedex Dr. SW #404, Conover, NC 28613-7426," along with a redacted account number (last four digits "7944"). This statement had a payment due date of April 2, 2013, and showed: a previous balance of \$2,716.76, one payment of \$500, a detailed list of purchases/debits totaling \$479.29, interest charges of \$48.03, and a new balance of \$2,742.08;

b. Lowe's Visa Rewards Card Account Statement with Ms. Peach's name and an address of "1225 Fedex Dr. SW #404, Conover, NC 28613-7426," along with a redacted account number (last four digits "7944"). This statement had a payment due date of October 10, 2013, and showed a previous balance of \$3,188.93, no payments, and no charges, but two "charge off" entries totaling \$3,188.93, and a current balance of \$0.

c. Bill of Sale dated December 12, 2013, between General Electric Capital Corporation, GE Capital Retail Bank, GEMB Lending, Inc., Monogram Credit Services, L.L.C., RFS Holding, L.L.C., and GEM Holding, L.L.C., collectively as "Seller" and PRA, as "Buyer", that included a one-page computer printout for account number (last 4 digits) 7944 reflecting "Lowe's Visa Rewards", and with Ms. Peach's name and the address that was on the account statements. In bold print at the bottom of this printout is the following: **"Data printed by Portfolio Recovery Associates, LLC from electronic records provided by GE CAPITAL RETAIL BANK pursuant to the sale of accounts from GE CAPITAL RETAIL BANK to Portfolio Recovery Associates, LLC"**.

3. Ms. Peach was served with the Summons that issued on April 13, 2015 and the Complaint by the Wake County Sheriff at 809 Silver Linden Lane, Wake Forest NC 27587 on April 16, 2015.

4. No motion for extension of time or answer was filed with the Clerk within the time allowed by law, and on May 28, 2015, PRA filed an Affidavit and Motion for Entry of Default and Judgment by Default.

5. The Affidavit and Motion for Entry of Default and Judgment by Default includes numerous factual allegations and was sworn to by PRA's attorney, Chelsea E. Uhlman. This motion/affidavit incorporates by reference certain attachments from the Complaint (specifically the two purported account statements and the purported chain of ownership) and it incorporates by reference one page of the Lowe's VISA Rewards Card Account Statement with a payment due date of October 10, 2013 that was included as an attachment to the Affidavit/Motion.

6. The Affidavit and Motion also references an "attached Affidavit of Account", which is an Affidavit signed by Dianna D. Williams and dated December 15, 2014. This Affidavit was included as part of the Affidavit and Motion. Ms. Williams' Affidavit attests, *inter alia*, that Ms. Williams is an employee of PRA and that she reviewed both PRA's records and the "business records of the Original Creditor GE CAPITAL RETAIL BANK/LOWE'S and those records transferred to [PRA] from GE CAPITAL RETAIL BANK, which have become a part of and have integrated into [PRA's] business records in the ordinary course of business." This Affidavit makes further attestations regarding what the records from the GE Capital Retail Bank ("Account Seller") reflect.

7. Ms. Uhlman's Affidavit and Motion for Entry of Default and Default Judgment (including the attachments outlined above) were presented to Assistant Clerk of Superior Court, Hope Satterfield, on or about May 28, 2015. That same day, Ms. Satterfield entered default and default judgment against Ms. Peach in the amount of \$3,188.93.

8. PRA is engaged in the business of purchasing delinquent or charged off consumer credit accounts and is, therefore, a "debt buyer" as that term is defined in North Carolina General Statutes Section 58-70-15(b)(4).

9. The Consumer Economic Protection Act of 2009 (the "Act") became effective in North Carolina on October 1, 2009. The Act heightened the prerequisites¹ for proper entry of default² judgment in a debt buyer action. These additional prerequisites are outlined in N.C. Gen. Stat. §58-70-155 and require that the Plaintiff have filed with the court evidence to establish the amount and nature of the debt, N.C. Gen. Stat. §58-70-155(a), specifically including the following:

- a. The original account number;
- b. The original creditor;
- c. The amount of the original debt;
- d. An itemization of charges and fees claimed to be owed;
- e. The original charge-off balance, or, if the balance has not been charged off, an explanation of the balance was calculated;
- f. An itemization of post charge-off additions, where applicable;
- g. The date of the last payment; and
- h. The amount of interest claimed and the basis for the interest charged.

N.C. Gen. Stat. §58-70-155(b)

10. The Act further provides that the "only evidence sufficient to establish the amount and nature of the debt shall be properly authenticated business records that satisfy the requirements of Rule 803(6) of the North Carolina Rules of Evidence." *Id.* In other words, the heightened evidentiary showing as outlined in finding of fact 9 above can be established **only by properly authenticated business records.**

11. Section 58-70-155(b)'s heightened evidentiary prerequisites in debt buyer cases clearly signal a legislative intent that "something more" is required prior to entry of a default judgment in a debt buyer action than would be required prior to the entry of a default judgment in a debt collection action brought by an original creditor.

¹ Use of the term "prerequisites" as it relates to the heightened evidentiary showing for debt buyers seeking default judgment is found in reference manuals for North Carolina Judges and Clerks of Court. *See, e.g., The North Carolina Superior Court Judges' Benchbook and the North Carolina Clerk of Superior Court Procedures Manual.*

² These additional prerequisites apply also to the entry of summary judgment.

Ms. Williams' Affidavit

12. Ms. Williams' Affidavit lays a sufficient foundation to show that the PRA business records she reviewed are subject to the 803(6) hearsay exception, and therefore the knowledge she obtained from the review of such records constitutes 'personal knowledge'. However, as it relates to determining whether the heightened evidentiary prerequisites have been met, the court cannot consider the contents of an Affidavit in determining whether default judgment should be entered in a debt-buyer action. The evidentiary showing required by the Act is "properly authenticated business records." Ms. Williams' Affidavit cannot properly be considered by the court in determining whether the Act's prerequisites have been met other than to "properly authenticate" any business records filed with the court. Ms. Williams' Affidavit does not incorporate or otherwise mention any business records filed with the court.

13. Even if Ms. Williams had stated in her Affidavit that the account statement attached to Ms. Uhlman's Motion/Affidavit and the account statements attached to the Complaint were part of the records Ms. Williams' reviewed and that these documents are true and accurate copies of the documents she reviewed, Ms. Williams' Affidavit does not lay a sufficient foundation for their admission under Rule 803(6) since it is likely that these documents came from the Account Seller or the Original Creditor.

14. Hearsay, as defined by the North Carolina Rules of Evidence, is inadmissible unless it is subject to a hearsay exception. "Hearsay within hearsay" is admissible only if each part of the combined statement(s) conforms to an exception.

15. Ms. Williams' Affidavit clearly reveals that PRA's business records include records transferred from the Account Seller. These other records are a second (and perhaps third)

layer of hearsay. Absent a showing that these other records fall within a hearsay exception, these other records are inadmissible hearsay.

16. Ms. Williams' Affidavit is silent as to any knowledge she might have regarding the records keeping system for either the Original Creditor or the Account Seller. *Cf. Moore v. Coachmen Indus.*, 129 N.C. 389, 395 (1998). Her Affidavit is insufficient to show that the Original Creditor's business records or the Account Seller's business records are also subject to Rule 803(6) hearsay exception.

Ms. Uhlman's Affidavit

17. Ms. Uhlman's Motion/Affidavit appears to attest to facts about the account at issue in this case. Yet there are no allegations in the Motion/Affidavit as to how she has first-hand knowledge of these facts. For example, in paragraph 13 of her affidavit she attests as follows: "As this was a credit card account, the origination balance was \$0.00." Likewise, paragraphs 8 – 11 of her Motion/Affidavit make factual allegations from which there is no basis identified of her first-hand knowledge other than she is the attorney for Plaintiff. Without more, this is not sufficient to show that she has first-hand knowledge about the account.

18. While Ms. Uhlman's Motion/Affidavit incorporates by reference the account statements and bill of sale that were attached to the Complaint, as well as the "Charge-off Statement" attached to her Motion, there is nothing in Ms. Uhlman's motion/affidavit from which the court could determine that she is a person who could lay the foundation for PRA's business records or for the business records of the Original Creditor or the Account Seller. Therefore, Ms. Uhlman's Motion/Affidavit (and documents incorporated therein) cannot properly be considered by the court in determining whether the Act's prerequisites have been met.

Itemization of Charges and Fees: G.S. 58-70-155(b)(4)

19. Even if the account statements attached to the Complaint and to Ms. Uhlman's Motion/Affidavit could be considered, these documents are insufficient to satisfy the Act's prerequisite of an "itemization of charges and fees".

20. While there are definitions of the term "itemization" in our General Statutes and case law involving other sections of the General Statutes, Chapter 58 does not define the "itemization of charges and fees claimed to be owed" that must be included in the filings of a plaintiff in a debt-buyer action who is seeking default judgment.

21. Issues of statutory interpretation are questions of law. *Parkdale Am., LLC v. Hinton*, 200 N.C. App. 275, 278 (2009). The primary goal of statutory interpretation is to "ascertain the intent of the legislature and to carry out such intention to the fullest extent." *Id.* (quoting *Brown v. Flowe*, 349 N.C. 520, 523 (1998)). The words used by the legislature are a primary factor to be considered in determining legislative intent. *Id.* If the language in the statute is clear and unambiguous, the Court must apply the plain meaning of the words. *Id.* However, when ambiguities exist, the Court then must attempt to interpret the statute in such a way as to give effect to the legislative intent. *Union v. Branch Banking & Trust Co.*, 176 N.C. App. 711, 717 (2006) (citation omitted). Absent a statutory definition of a word, it is presumed that the legislature intended to give words within a statute their ordinary meaning as determined according to the context in which those words ordinarily are used. *Parkdale*, 200 N.C. App. at 278. However, if giving effect to the plain meaning of the language of a statute will lead to absurd results, or will contravene the purpose of the legislature, the reason and purpose of the law shall control. *Union*, 176 N.C. App. at 717.

22. "Itemize" means "to create a detailed list of things; to set down in detail or by particulars."³

23. In a non-debt buyer case, an affidavit of the amount due and charge-off statement may be sufficient evidence to support entry of default judgment. Given the purpose of the Act, this is clearly not so in a debt buyer action.

24. To construe an "itemization of charges and fees" to be satisfied by the production of a "charge-off" statement and/or an affidavit of the amount alleged to be due is not consistent with the legislative intent behind the Act.

25. To require a debt-buyer to file with the Court the detail of every specific charge ever made or fee assessed over the life a credit card account might, in some instances, be unduly burdensome to the debt-buyer as well as an unnecessary burden on the court to review such documentation.

26. Consistent with the legislative intent behind the Act, the itemization of charges and fees presented in support of a motion for default (or summary) judgment must be detailed and include the particulars of each charge and fee claimed to be unpaid/owed, and this itemization must be the "properly authenticated business records" tendered in support of the motion for default judgment. In other words, there should be business records containing the specific details of individual charges and fees that total at a minimum the amount of the judgment Plaintiff seeks to obtain.

27. There is nothing in any of PRA's filings that satisfies the "itemization" requirement other than those charges in the purported account statement referenced in finding of

³"Itemize." *Merriam-Webster.com* Merriam-Webster, n.d. Web. 10 Feb. 2016.

fact 2(a) above; and, as noted above, this account statement has not been "properly authenticated."

Amount of the Original Debt: G.S. 58-70-155(b)(3)

28. Even if the account statements attached to the Complaint and to Ms. Uhlman's Motion/Affidavit could be considered, they are insufficient to satisfy the Act's prerequisite of "the amount of the original debt."

29. Ms. Uhlman's affidavit was the only submission before the Clerk concerning the "original debt balance." Yet there is nothing in Ms. Uhlman's verified motion that states how she knows the origination balance was zero other than the assumption that: "As this was a credit card account, the origination balance was \$0.00."

30. Hearsay contained in an affidavit and portions of an affidavit that are not based on an affiant's personal knowledge must be ignored by the court. *See, e.g., Moore v. Coachmen Indus.*, 129 N.C. App. 389, 499 S.E. 2d, 772 (1998); *Fuller v. Southland Corp.*, 57 N.C. App. 1, 290 S.E. 2d 754 (1982). While it is not necessary for the affidavit to state that it is based on first-hand knowledge, if it is not apparent from the affidavit that the affiant has first-hand knowledge, then that portion of the affidavit cannot be considered. Certainly assumptions and speculation must be ignored.

31. The purpose of the Act is to protect consumers. In this case, plaintiff failed to tender any "properly authenticated business records" to the court in support of its motion for default judgment. This utter failure to comply with the heightened evidentiary burden when seeking default judgment is good cause to set aside the entry of default.

32. Any finding of fact erroneously denominated as a conclusion of law below is incorporated herein by reference.

CONCLUSIONS OF LAW

1. This Court has jurisdiction over the parties and the subject matter of this action.
2. The proper procedure for a defendant to challenge a default judgment is to first seek relief from the judgment at the trial level. If the trial court denies the relief requested, then the order denying relief is the proper subject of an appeal. *See e.g., Golmon v. Latham*, 183 N.C. App. 150 (2007). Therefore, defendant herein could not have appealed the default judgment to the Court of Appeals without doing that which she did – file a motion seeking to have it set aside in the trial court.
3. The Clerk of Court possesses only such jurisdiction as is prescribed by statute. Rule 55(b)(1) authorizes clerks of court to enter default judgments only “[w]hen the plaintiff’s claim against a defendant is for a sum certain or for a sum which can by computation be made certain”
4. In order for the amount sought in a debt-buyer’s complaint to be a “sum certain,” the Clerk must be able to ascertain the sum by referring to only “properly authenticated business records that satisfy the requirements of Rule 803(6) of the North Carolina Rules of Evidence.” (quoting N.C. Gen. Stat 58-70-155(b)).
5. As outlined above, no properly authenticated business records that satisfy the requirement of Rule 803(6) were tendered to the Court.
6. PRA is a “debt buyer” within the meaning of that term as used in N.C.G.S. § 58-70-155. The instant case is “against a debtor” and involves “a complaint initiated by a debt buyer” within the meaning of the language of N.C.G.S. § 58-70-155(a).
7. N.C.G.S. § 58-70-155 requires, as a “prerequisite” to the entry of a default judgment in a debt buyer case against a debtor, that the debt buyer plaintiff file authenticated

business records containing, among other things, an itemization of the charges and fees claimed to be owed and the amount and basis for claimed interest.

8. PRA failed to comply with all the "prerequisites" of N.C.G.S. § 58-70-155.
9. PRA's filings, including the Complaint, Affidavit and Motion for Entry of Default and Judgment by Default, failed to meet the requirements of Rule 55(b)(1) of a "sum certain or for a sum which can by computation be made," which is a prerequisite to the Clerk having jurisdiction to enter a Default Judgment in this matter.
10. Defendant's Motion has been made within a reasonable time. The allowance of Defendant's Motion would be consistent with the interests of justice because allowing Defendant's Motion would help effectuate legislative intent in N.C.G.S. § 58-70-155, and would insure a judicial process in compliance with those provisions. Ms. Peach's [Proposed] Answer and Counterclaim filed in advance of the hearing on Defendant's Motion appears to present colorable and valid legal defenses to PRA's Complaint. However no findings or conclusions are entered on that issue.
11. As set forth herein, good cause exists for setting aside the Entry of Default.
12. As set forth herein, grounds exist pursuant to Rule 60(b) to set aside the Default Judgment.
13. Any conclusion of law erroneously denominated as a finding of fact above is incorporated herein by reference.

NOW, THEREFORE, it is hereby ORDERED that the Judgment by Default is hereby vacated and set aside pursuant to Rule 60(b), and that the Entry of Default is likewise vacated and set aside.

This, the 29th day of March, 2016.


Debra Sasser, Judge Presiding

CERTIFICATE OF SERVICE

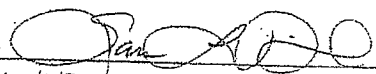
THIS IS TO CERTIFY that the foregoing Order was served on counsel of record for Plaintiff and for Defendant by mailing a copy thereof first class mail, postage prepaid, addressed as follows:

Mr. Andrew E. Hoke
Sessoms & Rogers, P.A.
1822 East NC Highway 54, Suite 200
PO Box 110564
Durham, NC 27709

Ms. Carlene McNulty
North Carolina Justice Center
PO Box 28068
Raleigh, NC 27611

Mr. J. Jerome Hartzell
PO Box 10246
Raleigh, NC 27605

This the 29th day of March, 2016.


Ass't/Deputy Clerk of Court

NORTH CAROLINA
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
16-CVD-8165

REBA PALMER,

Plaintiff,

v.

PORTFOLIO RECOVERY
ASSOCIATES, LLC,

Defendant.

**AFFIDAVIT OF
SERVICE OF PROCESS
BY CERTIFIED MAIL**

I, Jason Pikler, hereby certify that, pursuant to Rule 4(j)(c) of the North Carolina Rules of Civil Procedure, I served a copy of the Amended Complaint in this matter upon Defendant Portfolio Recovery Associates, LLC, by certified mail/return receipt requested, as follows:

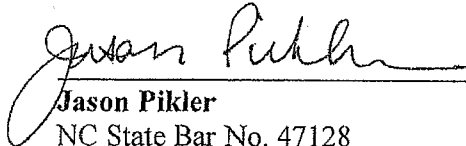
1. On July 11, 2016, I deposited a true and correct copy of the Amended Complaint in a properly addressed envelope to United States Postal Service, Certified Mail/Return Receipt Requested, for delivery to addressee: Corporation Service Company, as Registered Agent for Defendant PRA.

2. On July 14, 2016 said Amended Complaint was delivered to Corporation Service Company, as Registered Agent for Defendant PRA, by Certified Mail/Return Receipt Requested. The original United States Postal Service proof-of-delivery receipt evidencing delivery to, and signature confirming receipt by, PRA's authorized Registered Agent is attached hereto as Exhibit A.

POUNDS EX 0626

This the 20th day of July, 2016.

Respectfully submitted,

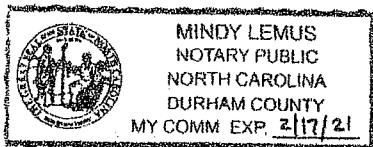


Jason Pikler

NC State Bar No. 47128
NORTH CAROLINA JUSTICE CENTER
224 South Dawson Street, P.O. Box 28068
Raleigh, NC 27611
Telephone No.: (919) 863-2304
Facsimile No.: (919) 856-2175
Email: jason.pikler@ncjustice.org

**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

The foregoing Affidavit of Service of Process was acknowledged before me this
the 20th day of July, 2016, by Jason Pikler, Esq., who is personally known to me.



[NOTARY SEAL]



Notary Public

Mindy Lemus

Notary Public Printed Name

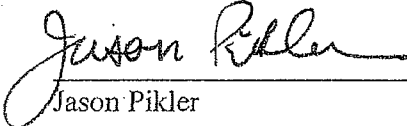
My Commission Expires: 2/17/2021

CERTIFICATE OF SERVICE

Undersigned counsel for Plaintiff hereby certifies that on this 20th day of July, 2016, a true and correct copy of the foregoing Affidavit of Service of Process was filed with the Wake County Clerk of Courts Office, with copies served upon the Registered Agent for Defendant PRA by U.S. Mail, postage prepaid, addressed as follows:

Corporation Service Company, as Registered Agent for
Portfolio Recovery Associates, LLC
327 Hillsborough Street
Raleigh, NC 27603-1725

Respectfully submitted,



Jason Pikler

EXHIBIT "A"

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only. No Insurance Coverage Provided)
 For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage \$1.10
 Certified Fee 3.30
 Return Receipt Fee (Endorsement Required) .70
 Restricted Delivery Fee (Endorsement Required)
 Total Postage & Fees \$7.10

Sent To
 Corporation Service Company as RA for PRA
 Street, Apt. No.,
 or PO Box No. 327 Hillsborough St.
 City, State, ZIP+4 Raleigh, NC 27603-1725

7010 1670 0000 4941 2051

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<p>■ Complete items 1, 2, and 3.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p> <p>1. Article Addressed to: Corporation Service Company as Registered Agent for Portfolio Recovery Assoc. LLC 327 Hillsborough Street Raleigh, NC 27603-1725</p> <p>2. Article Number (Transfer from service label) 7010 1670 0000 4941 2051</p>	<p>A. Signature X <i>Hughes</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>Hughes</i> C. Date of Delivery <i>7/14</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</p> <p>3. Service Type <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery</p>

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

POUNDS EX 0629

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
16 CvD 8165

DEFENDANT'S MOTION FOR
EXTENSION OF TIME

WHEREFORE, defendant Portfolio Recovery Associates, LLC requests that its Motion for Extension of Time be granted and that it have an additional thirty (30) days to and including September 14, 2016, within which to serve its answer or other responsive pleading to Plaintiff's Amended Complaint.

Case 1:16-cv-01395-WO-JEP Document 1-15 Filed 12/09/16 Page 97 of 110

This the 10th day of August, 2016.


Jon Berkelhammer
N.C. State Bar No. 10246
ELLIS & WINTERS LLP
300 North Greene Street, Suite 800
Greensboro, North Carolina 27401
Telephone: (336) 389-5683
Facsimile: (336) 217-4198
jon.berkelhammer@elliswinters.com

Attorney for Defendant

CERTIFICATE OF SERVICE

This is to certify that the foregoing has been duly served by depositing a copy thereof in the United States mail, first class, postage pre-paid addressed to the following counsel of record:

Carlene McNulty
Jason Pikler
North Carolina Justice Center
Post Office Box 28068
Raleigh, NC 27611
Attorney for Plaintiff

J. Jerome Hartzell
Post Office Box 10246
Raleigh, NC 27605

This the 10th day of August, 2016.

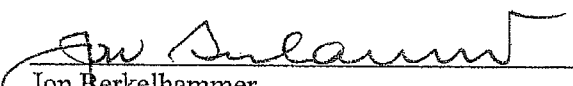

Jon Berkelhammer
N.C. State Bar No. 10246
Attorney for Defendant

Exhibit A



CORPORATION SERVICE COMPANY

Notice of Service of Process

NJH / ALL
Transmittal Number: 15387147
Date Processed: 07/14/2016

Primary Contact: Shannan R. Powell
Portfolio Recovery Associates, Inc.
140 Corporate Boulevard
Norfolk, VA 23502

Entity:	Portfolio Recovery Associates, LLC Entity ID Number 1653471
Entity Served:	Portfolio Recovery Associates LLC
Title of Action:	Reba Palmer vs. Portfolio Recovery Associates, LLC
Document(s) Type:	Amended Counterclaim
Nature of Action:	Violation of State/Federal Act
Court/Agency:	Wake County District Court, North Carolina
Case/Reference No:	16-CVD-8165
Jurisdiction Served:	North Carolina
Date Served on CSC:	07/14/2016
Answer or Appearance Due:	Other/NA
Originally Served On:	CSC
How Served:	Certified Mail
Sender Information:	North Carolina Justice Center Not Shown

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

To avoid potential delay, please do not send your response to CSC
CSC is SAS70 Type II certified for its Litigation Management System.
2711 Centerville Road Wilmington, DE 19808 (888) 690-2882 | sop@cscinfo.com

POUNDS EX 0634

NORTH CAROLINA

WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
16 CvD 8165

REBA PALMER,

Plaintiff,

v.

PORTFOLIO RECOVERY
ASSOCIATES, LLC,

Defendant.

ORDER

THIS CAUSE COMING ON TO BE HEARD and being heard before the Undersigned Clerk of Court of Wake County on defendant Portfolio Recovery Associates, LLC's Motion for Extension of Time to Respond to Plaintiff's Amended Complaint, and it appearing to the Court that the time for responding to Plaintiff's Amended Complaint, has not expired, that no prior extensions of time have been obtained, and the motion is well-taken and should be ALLOWED;

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendant Portfolio Recovery Associates, LLC's Motion for Extension of Time is GRANTED, and defendant Portfolio Recovery Associates, LLC shall have an additional thirty (30) days to and including September 14, 2016, within which to serve its answer or other responsive pleading to Plaintiff's Amended Complaint.

This the ____ day of August, 2016.

Deputy/Clerk of Superior Court

POUNDS EX 0635

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
16 CvD 8165

Plaintiff,
v.

Defendant.

Pursuant to Rule 68.1 of the North Carolina Rules of Civil Procedure, defendant Portfolio Recovery Associates, LLC (“PRA”), shows the court:

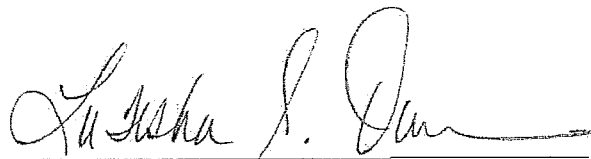
- POUNDS EX 0636

5. Plaintiff prays that she be granted recovery of the statutory penalty prescribed by N.C.G.S. § 58-70-130(b) in the amount of \$4,000. Am. Compl. prayer for relief ¶ 1.

6. PRA may (or may not) be liable to Plaintiff in the amount prayed for in the Complaint or for any amount.

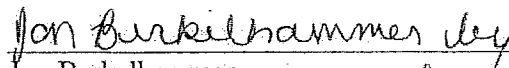
7. PRA nevertheless authorizes the entry of judgment in favor of plaintiff Reba Palmer in the sum of \$4,000.

This the 12th day of September, 2016.



Portfolio Recovery Associates, LLC,
Defendant

*This the 14th day of
September, 2016.*



Jon Berkelhammer
N.C. State Bar No. 10246
ELLIS & WINTERS LLP
300 North Greene Street, Suite 800
Greensboro, North Carolina 27401
Telephone: (336) 389-5683
Facsimile: (336) 217-4198
jon.berkelhammer@elliswinters.com

Diptych J. Nelly
26816

Attorney for Defendant

Upon the foregoing confession of judgment, it is therefore ordered, adjudged and decreed that plaintiff have and recover of defendant the sum of \$4,000 and costs.

This ___ day of September, 2016.

Clerk

VERIFICATION

Commonwealth

STATE OF Virginia

City
COUNTY OF Norfolk

LATISHA EWENS, first being duly sworn, deposes and says that he/she is the Deputy General Counsel of Portfolio Recovery Associates, LLC and has the authority to make this verification on its behalf, that the statements contained in the foregoing Judgment are true and correct to the best of his/her knowledge, except where it is stated upon information and belief, in which case he/she believes the response to be true.

This the 12th day of September, 2016.

LATISHA S. EWENS

Sworn to and subscribed before me
this the 12th day of September, 2016.

Nancy J. Mahlmann
Notary Public

My Commission Expires: February 28, 2019



CERTIFICATE OF SERVICE

This is to certify that the foregoing has been duly served by depositing a copy thereof in the United States mail, first class, postage pre-paid addressed to the following counsel of record:

Carlene McNulty
Jason Pikler
North Carolina Justice Center
Post Office Box 28068
Raleigh, NC 27611
Attorney for Plaintiff

J. Jerome Hartzell
Post Office Box 10246
Raleigh, NC 27605

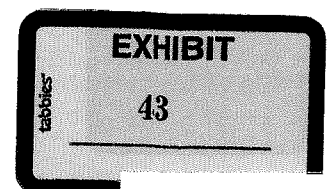
This the 14th day of September, 2016.

Jon Berkelhammer by Affie

Jon Berkelhammer
N.C. State Bar No. 10246
Attorney for Defendant

J. Welly
26816

AUTHENTICATING AFFIDAVITS



POUNDS EX 0640

AFFIDAVIT OF SEONAI D. RIJO
AUTHENTICATING CASE FILES

Seonaid A. Rijo, being duly sworn, deposes and says:

1. I am a senior litigation paralegal at the North Carolina Justice Center. I give this affidavit in the belief that it presents matters that are undisputed, as it concerns solely the contents of court file copied at the Cumberland County Clerk of Court's Office.
2. On August 30, 2016, I visited the office of the Cumberland County Clerk of Court where I retrieved and scanned the contents of the case file *Portfolio Recovery Associates, LLC v. Amanda Stancil* (15-CVD-8597).
3. The file described above was copied into an electronic file using a Fujitsu Scansnap iX-500 portable document scanner. I scanned the complete file as of the date of copying.
4. I saved the contents of the scanned court file in pdf. format onto a computer provided to me by the North Carolina Justice Center.
5. The court file referenced above appears as Exhibit 41 to the Exhibits in Support of Plaintiffs' Motion for Class Certification, and is a true, accurate, and complete copy of the file as maintained by the Cumberland County Clerk of Court's Office as of the date set out above.

[Intentionally left blank]

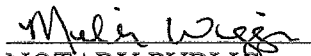
FURTHER AFFIANT SAYETH NAUGHT.

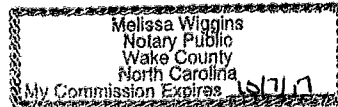
This the 9th day of November, 2016.


SEONAI D. RIJO

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Subscribed and sworn to (or affirmed) before me,
this the 9 day of November, 2016.


NOTARY PUBLIC (SEAL)



My Commission Expires: 10/1/17.

NORTH CAROLINA
WAKE COUNTY

AFFIDAVIT OF COUNSEL (McNULTY)
AUTHENTICATING COURT DOCUMENTS


Carlene McNulty being duly sworn, deposes and says:

1. I am an attorney at the North Carolina Justice Center. I give this affidavit in the belief that it presents matters that are undisputed, as it concerns solely copies of court documents that I filed and/or were served by the opposing party in a case filed at the Wake County Clerk of Court's Office.

2. I represent Reba Palmer in a case filed in Wake County District Court against Portfolio Recovery Associates, LLC (Wake 16-CVD-8165). All of the documents that comprise Exhibit 42 of the Exhibits in Support of Plaintiffs' Motions for Preliminary Injunction and Class Certification are true and accurate copies of documents that were either filed by me or served on me by Portfolio Recovery Associates, LLC, in the above-described case.

3. FURTHER AFFIANT SAYETH NAUGHT.


This the 3rd day of November, 2016.



Carlene McNulty

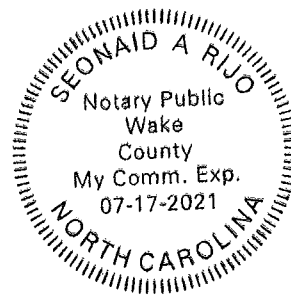
STATE OF NORTH CAROLINA
COUNTY OF WAKE

Subscribed and sworn to (or affirmed) before me,
this the 3rd day of November, 2016.

 (SEAL)

NOTARY PUBLIC

My Commission Expires: 9.17.21.



POUNDS EX 0643